M T CICERONIS

ORATIO PRO

L MURENA

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M T CICERONIS

ORATIO PRO

L MURENA

WITH ENGLISH INTRODUCTION AND NOTES

BY

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hinc rapti fasces pretio, sectorque favoris
ipse sui populus, letalisque ambitus urbi
annua venali referens certamina campo.
LUCAN *Phars* I 178—180

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TABLE OF CONTENTS.

PREFACE TO THE SECOND EDITION.

HAVING been requested by the Syndics of the Press to prepare a new edition of the Speech as soon after Christmas as possible, I have revised the whole book, adding correcting and rewriting, as necessity suggested and time would allow. Of the many shortcomings of the edition no one can be more deeply conscious than myself: but while I claim the reader's indulgence I may add a hope that this second issue will be found more full and far more clear than the former one.

W E HEITLAND.

CAMBRIDGE,
Feb 1, 1876.

PREFACE TO THE FIRST EDITION.

THIS book is sent forth as the best attempt at an Edition of the Pro Murena that with short time and pressing College engagements I can make. Being familiar with the speech from frequent reading, and having collected matter upon many passages myself, I have taken the best authorities as guides in the writing of notes, and striven to give brief but full acknowledgment for what I have borrowed from them. At the same time I have done more than borrow; the Introduction, with the exception of B § i, is all my own work; and in the notes, where a passage seemed to me to require fuller explanation than had been already offered, I have tried to supply the needful matter, while on the other hand I have freely rejected such notes of former Editors as appeared superfluous. It is to be understood that I address myself to University students and to the head forms of Schools.

The speech though fully commented on in Germany has been so neglected in England that I venture to hope for much indulgence from any critical scholar who may glance into my notes. If I have in any degree fulfilled the duty of a rough pioneer, it is as much as I can look for.

The works principally used in preparing the notes have been—

A. *Editions of the Speech.*

1. Matthiae, 1831.
2. A W Zumpt 1859.
3. Tischer, 1861.
4. Halm, ed 2, 1872.
5. Freund's präparationen zu Cicero's werken (pt 5).

B. *Grammars, Lexicons, &c.*

6. Madvig's Latin grammar, English translation, ed 4.
7. Nizolii lexicon Ciceronianum.
8. Ernesti's clavis Ciceroniana.

C. *Reference Books.*

9. Madvig's de finibus, new edition.
10. Mayor's Second Philippic and Juvenal.
11. Halm and Wilkins' Catilinarian speeches.
12. Ramsay's pro Cluentio.
13. C G Zumpt's Annales veterum regnorum et populorum.
14. Mommsen's History of Rome, English translation.
15. Huschke's iurisprudentiae anteiustinianae quae supersunt.
16. Lord Mackenzie's Roman Law.
17. Forsyth's Life of Cicero.
18. Cicero, ed Klotz.
19. Gellius, ed Hertz.
20. Plutarch's Lives, ed Sintenis.

One source of help must be noticed apart; namely a valuable set of MS notes (the first beginnings of a once contemplated edition), kindly lent me by the

Rev John E B Mayor, Professor of Latin in the University of Cambridge. These I have laid under contribution for such extra matter as suited the pretensions of my book.

To Mr J E Sandys, Fellow and Tutor of St John's College, Cambridge, my thanks are due for much friendly assistance in various ways. The Index has been made by my good friends and pupils, T E Raven of Gonville and Caius College, H W Simpkinson and R F Winch of St John's, whom I thank heartily for their help.

W E HEITLAND.

ISLE OF MAN,
Aug 13, 1874.

INTRODUCTION.

A. *The Text.*

NONE of the existing MSS of the speech for Murena are of earlier date than the 15th century of our era. In fact at the beginning of that century no copy of it was known to have survived. About the year 1414 the great scholar Poggio found somewhere in southern France a manuscript containing it, but in a tattered state, and with the writing much defaced by ill keeping and the effect of time. This he either took into Italy or copied on the spot: certain it is that, while the speech was at once circulated among the learned, the old MS found by Poggio has perished. The existing MSS are universally admitted to be of little value; and a careful examination of the various readings which they present (in the full collation of A W Zumpt) has convinced me that the comparative method is alone safe in deciding textual questions. It is true that A W Zumpt is devoted to one MS (Lag 9) and relies almost wholly upon it for the formation of a text; but he stands alone in this opinion and—I now think—deservedly. Since my first edition I have read Halm's paper 'über die handschriften zu Cicero's rede pro Murena' (München 1861), kindly sent me by Professor Halm himself. I have managed also to wade through nearly all the furious controversy between that eminent scholar and A W Zumpt in the zeitschrift für das gymnasialwesen (15th and 16th years), and to read a valuable article by Dr G Sorof (*ib* 15th year) on Tischer's edition. The last paper together with a small Latin pamphlet by the same author (1861), forms a valuable contribution to the criticism of the speech, which as Halm says has given birth to 'eine kleine literatur' of its own. Starting then as before from Halm's text of 1868 I have revised the whole speech: in a few cases strong reasons have led me to accept

emendations which from want of the necessary information and time I had been previously compelled to ignore: but I have on the whole returned still more to the MSS readings than in the former edition. In one case (§ 62) I have ventured to restore the MSS reading on my own responsibility: on all much contested points I have given my full reasons for the view I have taken.

B. i. *Murena and his family* [adapted from Halm].

Our knowledge of L Licinius Murena rests almost entirely upon the notices of his life preserved to us by his defender Cicero. The plebeian family of which he was a member came from Lanuvium and belonged to the new Nobility (§§ 15, 90); as yet it counted no consulars in its ranks; the first member of it who gained the praetorship was our Murena's great-grandfather (§§ 15, 86). The town too had never as yet produced a consul (§ 86). The most celebrated of the family was the father, who after having held the praetorship served with distinction as Sulla's *legatus* in Greece and Asia. After the treaty with Mithridates in BC 84 that general entrusted him with the command of the two legions left behind in Asia. In this position Murena got into fresh complications with Mithridates; his successes were not conspicuous, and were more than reversed by a marked defeat which he suffered in the passage of the Halys (§ 32, where the affair is grossly misrepresented, see Appian Mithr 64). Sulla put an end to the quarrel by the recall of Murena, granting him however the honour of a triumph as though he had won notable victories (§§ 11, 15, App Mithr 66). In this, usually called the Second Mithridatic war, the son served his military apprenticeship under the command of his father (§ 11). According to the assertions of his accusers, the young officer gave himself up wholly to a life of Asiatic luxury and lowered the dignity of Rome so far as to dance like a harlequin in the company of his dissolute young companions,—charges which it is true his defender repels as utterly unfounded (§§ 11, 12, 13).

On his return from Asia, L Murena became, along with his subsequent accuser Servius Sulpicius, a candidate for the quaestorship; but in the tenure of this office found no chance of specially distinguishing himself (§ 18). The fresh outbreak of the war with

Mithridates took Murena again to Asia to join the army of L Lucullus. The official dispatches of his commander gave testimony to the great services rendered by him as *legatus* in those victorious campaigns (§ 20).

Without having held the aedileship (§ 37), Murena obtained in 65 B C the praetorship, again with Sulpicius for a colleague; but had been more fortunate than the latter in the duties given him by the lot: for while he had got the *iuris dictio urbana*, the irksome task of conducting the enquiries *de peculatu* had fallen to Sulpicius (§§ 35—42). Already at that time animated by the wish to bring the consulship into his family, Murena celebrated the Apollinarian games, the conduct of which belonged to the *praetor urbanus*, with splendour all the greater that by reason of his having missed the aedileship he had found no opportunity of winning popularity by magnificent shows. After the Praetorship, he received in 64 B C as propraetor the government of Transalpine Gaul (§§ 42, 89). Before the expiration of his second year, leaving his brother and *legatus* C Murena behind as his deputy, he returned to Rome to accompany the triumph of Lucullus, and stand for the consulship (§ 89, Sallust Cat 42). It having become notorious that Catiline's band of conspirators had decided to carry through this election with violence, and to kill the presiding consul and the rivals of their leader, the election appointed for the 22nd of September was put off, and the consul employed the time thus gained in forming for himself a strong escort of young men, under whose guard the election was held without disturbance (about the middle of October) and resulted in favour of D Silanus and Murena. For the sequel of this, see below on the trial and the pleaders for the prosecution and defence. One thing more remains to be said of the accused; he was clearly a man of good temper and judgement, if we may trust the account in Plutarch Cato 28 of his rescuing and protecting Cato in a riot, or 21 *ἀποφυγὼν δὲ ὁ Μουρήνας οὐ πονηροῦ πάθος οὐδὲ ἄφρονος ἔπαθεν ἀνθρώπου πρὸς τὸν Κάτωνα· καὶ γὰρ ὑπατεύων ἔχρητο συμβούλῳ τῶν μεγίστων καὶ τἆλλα τιμῶν καὶ πιστεύων διετέλεσεν.*

ii. *For the Prosecution.*

(1) Servius Sulpicius Q F Lemonia Rufus, a famous jurist, was born probably in 105 B C (Cic Brutus § 150). His early devotion to improving studies was remarkable: he went to study at Rhodes (ib § 151), and on his return to Rome seemed to have chosen rather to take the first place among jurists than the second among orators (ib § 151). He is compared with Cicero himself, and the pair are matched with Scaevola and Crassus; for while Sulpicius, like Scaevola, cultivated his powers of oratory to back a knowledge of case-law, his eloquent contemporary and friend learnt enough of case-law to be a complement of his oratorical skill (ib § 150). He studied law under two eminent jurists, Lucius Lucilius Balbus and C Aquillius Gallus, but soon surpassed the latter in painstaking accuracy and the former in despatch; combining, says Cicero (ib § 154), the merits of both in himself. Sulpicius and Cicero went up the ladder of office step for step (ib § 156): and as we know that Cicero held each office at the earliest age permitted by law (*anno suo*), we can find the dates of Sulpicius' quaestorship (viz 74 B C) and praetorship (65 B C) with tolerable certainty. In both these offices he had for colleague L Licinius Murena (pro Mur §§ 18, 35—42). In B C 63 both came forward as candidates for the consulship of the following year: neither had, so far as we know, held the aedileship, but Murena had become popular as *praetor urbanus*, while Sulpicius had had no chance of winning favour. Besides, during the canvass it became apparent that the latter had given himself up to the design of prosecuting Murena for corrupt practices under the new law of the consul Cicero (*lex Tullia de ambitu*, pro Mur §§ 5, 46, 47, 67, Dion XXXVII 29). The result of the election was that out of the four candidates (Decimus Junius Silanus and L Sergius Catilina being the other two) the choice fell upon Silanus and Murena. The subsequent rebellion and death of Catiline will be found treated in the introduction to Mr Wilkins' edition of the Catilinarian speeches. Sulpicius brought Murena to trial, with what result will be presently seen. He himself did not attain to the consulship until the year 51 B C. In the civil war he took the side of Caesar, and was appointed by him to the government of the province of

Achaia in B C 46 (Cic ad fam IV 3, 4, 5): but he was greatly troubled at this time by the state of affairs and the manifest collapse of the Commonwealth (ad fam IV 1, 2, 3); in fact, though taking part with Caesar, he was, from his slowness of disposition (ad fam VIII 10 § 3) and want of decided views (ad Att XI 7 § 4), long unable to make up his mind as to the course he should follow. In B C 43 he was sent to the camp of Antonius on an embassy, which he undertook from patriotic motives, though at the time suffering from severe illness. He died on this service in the lines before Mutina, and Cicero with sincere grief delivered a splendid eulogy on the life and merits of his departed friend, the speech known to us as the ninth Philippic. His intimate friendship with Cicero is perhaps best shewn by two letters that passed between them in the year 45 B C. Early in February Cicero had lost his daughter Tullia, who died suddenly in childbirth. When Sulpicius heard of this, he wrote to Cicero a letter (ad fam IV 5), conveying with diffident and tender delicacy the consolations he could offer in so great a trouble. Cicero replied (ad fam IV 6) in a letter which, though mournful and querulous in tone, shews how highly he valued the kind-hearted platitudes of his friend, which, if not new, were still grateful to him. The two letters are well worth reading, and should be read by every one in connexion with the ninth Philippic and the speech for Murena.

(2) M Porcius Cato, great-grandson of the famous censor of the same name, was born B C 95. The main details in connexion with his life will be found in any biographical dictionary. He was celebrated chiefly for a rugged firmness of character, which shewed itself early in him, and was further developed by his acceptance of the stern doctrines of the Stoic school. A man whose name stood for uprightness itself, and for unflinching devotion to duty, for morality of life and frugal simplicity, in an age of time-serving and corruption, an age of extravagance and immorality, when to be patriotic was to be a marked man, exposed to the ridicule of the careless and the knife of the traitor, he stood out among his feeble contemporaries as one who though with them was not of them. For this reason he was unable to exert any great or lasting influence on his fellow citizens: most admired without following him. Cicero, who was intimate with him, seems to have

valued his worth very highly, but to have generally looked upon his plans as unpractical, in fact as a useless protest against the degeneracy of the times (ad Att I 18 § 7, II I § 8, IV 16 § 12, XI 7 § 4, and de off III § 88, de divinat I § 24, parad § I, pro Mur *passim*, etc. . . .). In the year B C 46, when the Pompeian cause in Africa had been lost at the battle of Thapsus, Cato withdrew to Utica, and after deliberation slew himself, feeling that he had no further mission to perform. Even under the Caesars the praises of Cato were sung by the poets in their choicest lines: see in particular Hor carm I 12 35, II I 24, A P 14, Virg Aen VIII 670; a 'speech of Cato when at the point to die' formed a favourite rhetorical exercise in the schools (Persius III 45): but his true epitaph was written by Lucan (Phars I 128).

> victrix causa deis placuit, sed victa Catoni.

The following lines (II 380 foll) also deserve quotation:

> ...hi mores, haec duri immota Catonis
> secta fuit; servare modum finemque tenere,
> naturamque sequi patriaeque impendere vitam;
> nec sibi sed toti genitum se credere mundo.

And again (II 388, 9).

> ....urbi pater est, urbique maritus;
> iustitiae cultor, rigidi servator honesti.

Such was the man who declared before this consular election that he would prosecute any candidate whom he found to have been guilty of corrupt practices as defined by the existing law (pro Mur § 62, Plut Cato 21). But Catiline fled from Rome to join the rebel band of Gaius Manlius, which section of the conspirators had already raised in Etruria the standard of open revolt. One of the successful candidates, Silanus, was married to Cato's sister, and Cato yielded so far as to spare a brother-in-law. The course which he finally adopted was, to join forces with Sulpicius, then getting up his case. The latter then gave up his designs against Silanus, took Cato to be a *subscriptor*, and the two directed their whole strength against Murena. Cato was at this time tribune-elect. Though a Stoic, he was a fine speaker (Brutus § 118).

(3) Servius Sulpicius Rufus, another *subscriptor* in this case, is generally represented as the son of the accuser. But had this been so we must have found some allusion to it in the speech.

Halm then is right in leaving his identity undefined. In § 57 the *titulus* speaks of him as *adulescens*, and from § 56 we learn that his father was a friend of Murena.

(4) Gaius Postumus seems to have been the name of the third *subscriptor*, about whom nothing more seems to be known than is to be found in the speech, §§ 54, 56, 57, 69.

iii. *For the Defence.*

(1) Marcus Tullius M F M N Cicero was born at Arpinum B C 106. To attempt any remarks on his character would be out of place here. The facts connected with him which have most to do with the present case are these. In the year of his consulship (B C 63) he was brought face to face with one of the most serious dangers that ever threatened Rome, the foul conspiracy of Catiline. His watchfulness and energy thwarted all the plans of the band of traitors, and without doubt saved the State, as he is never weary of telling us. The story is written in Roman history and needs no repetition here. Early in the same year, following the declared will of the Senate, he had carried a law to supplement the *lex Calpurnia de ambitu*, imposing more stringent penalties and defining more accurately the practices regarded by the law as 'corrupt' (see notes on §§ 46, 47). When Murena was accused of *ambitus*, the consul, to the surprise of some, came forward to defend him. His reasons for this course were,—

(a) He had been returning officer at the election, and felt bound to support the man whom he had declared duly elected. §§ 1, 3.

(b) He had been exposed to great dangers in his own year of office, and must needs feel for his successor, who would have to carry out what he had begun. §§ 3, 4.

(c) Murena was an old friend. §§ 5, 8, 10.

(d) Murena was innocent. §§ 5, 67—77.

(e) One who had risen to be praetor and consul by his efforts as a pleader could not refuse the brief. §§ 8, 9, 10.

(f) The safety of the State demanded the acquittal of the consul-elect. §§ 4, 78—85.

These are stated in the speech with more or less sincerity, and some serve as arguments for the defence. But from his own admissions (see note on § 79) it is pretty clear that only (f) and perhaps (c) can really have had much weight with him.

(2) Quintus Hortensius, who seems also to have borne the name *Hortalus* (ad Att II 25 § 1, IV 15 § 4), the famous rival of Cicero in the forum, was born B C 114, and early gave proofs of great talent (Brutus § 228). At the age of 19 he made his first appearance as a speaker, and won the approval of even the most exacting connoisseurs (ib § 229). His reputation increased with his experience (ib § 301), and he became the leading orator of the day. He was noted for almost preternatural powers of memory (ib § 301), for intense interest in and application to his profession (ib § 302), and for the nicely-balanced arrangement both of his opening speeches and replies (ib § 302). His style of oratory is characterized as tasteful finished and rich, the result of great ability strengthened by constant practice (ib § 303). He never failed to bring out all the points of his argument and make the best of his case (ib § 303). His voice was ringing and clear, his delivery pleasing; but he was inclined to overdo movement and gesture (ib § 303). He died in B C 50 (ib § 229). He had ranked above Cicero as a pleader until the great Verres case (B C 70), after which Cicero stood out with a decided superiority (see I in Verrem § 35 and Mr Forsyth's life of Cicero, ch 4, for the tactics of the Defence in that trial). Cicero, when he became consul, changed his politics and supported the party of the *optimates*. This is why we find the latter pleading on the same side as Hortensius in the present trial.

(3) Marcus Licinius P F Crassus, a contemporary of Hortensius (Brutus § 233), with little learning and less ability, rose by his diligent mastery of cases and by his personal influence to the front rank of advocates (ib § 233), a position which he maintained for many years. His language was terse and correct, the matter handled with care; but he lacked brilliancy of diction. Though he got very excited, he never betrayed it in his voice, but spoke in a passionless unvarying tone (ib § 233), which may perhaps be accounted for by his deafness (Tusc disp V § 116).

Though not born to wealth (Plut Crass I) he attained by frugality and judicious speculation to a vast fortune, so that he was nicknamed 'millionaire' (*dives*) and is spoken of proverbially (*Crasso invidere*, Cic ad Att II 4 § 2) as the wealthiest man of his day. He fell B C 53 in an ambuscade during an expedition against the Parthians (Lucan I 104), and is placed by Plutarch alongside of the Athenian Nikias as an instance of an awful end following upon a moderate and circumspect life.

iv. *The Trial.*

Murena was tried in the latter half of November, B C 63. Catiline had left Rome (§§ 78, 83), and this was on Nov 7th, (Mr Wilkins' ed of Catil speeches, intr §§ 18, 19); again, Cato had not yet entered on his office of tribune (§§ 58, 81), and this took place on Dec 10th. Cases of *ambitus* were dealt with by one of the *quaestiones perpetuae* (first established B C 149 in cases of *repetundae*, Cic Brutus § 106), the jury being presided over by one of the praetors. For the state of the laws concerning bribery, see notes on § 46, and for the composition of the jury, Appendix B. The names of the pleaders on both sides and a short notice of each are given above. Murena was also supported by the appearance in court of several men of mark, the most prominent being Lucius Licinius Lucullus (§ 20). Whether the accused was guilty of the charges brought against him is not certain; but from the stress laid by Cicero on the political exigencies of the time (§§ 4, 79), and the orator's own boast (pro Flacco § 98, cf Quintil VI I § 35), we naturally infer that he was. At any rate he was acquitted, for he held the consulship in the following year.

C. *Remarks on the Speech.*

Mr Forsyth well says 'it is a striking proof of the elastic energy of Cicero's mind that, at the very moment of the explosion of the conspiracy, and in the midst of the most awful danger, he was able to deliver in defence of one of his friends a speech distinguished by its light wit and good-humoured raillery.' If we

put ourselves for a moment at that point of the case where the consul rises to speak we see that

(1) He had been charged with inconsistency and with condoning illegal acts by undertaking the defence.

(2) Murena's life had been painted in glaring colours as profligate and unworthy of the consulship.

(3) Murena had been charged with corrupt practices at the election.

(4) Sulpicius had been held up as a model candidate, who would have been elected but for these practices; and Cicero himself had supported his candidature.

It was clear that the first three of these points would only bear very gentle handling, and (3) had been dealt with in detail by the juniors. The case was otherwise with regard to (4). Sulpicius had taken a false step when he made light of Murena's services in the field: it was easy to retort on him with double force by attacking the 'nice sharp quillets' of the jurists in a tone of bantering raillery. There was also an opening for retort in (3); for Cato had put forward the specific charges not merely as open violations of the written law, but as opposed to the moral principles of the Stoic school. It was self-evident that a playful exposure of the unpractical nature of the Stoic paradoxes would seriously weaken the force of those charges which were formidable chiefly from the reputation of Cato. But no one knew better than Cicero that the real key to the defence lay in the political situation of the moment. Catiline's conspiracy was discovered but not crushed: the ringleader was still in arms, the capital was thought to be full of his accomplices. There were then three lines of defence to be employed.

(1) The commonwealth needs all its officers at this crisis:
but the meeting of the centuries for the election of a new consul before Jan 1 may be prevented by dozens of things (e g religious scruples about an *omen*):
therefore, keep the consuls you have.

(2) The man for the time must be a man of action, not of forms and quibbles:
Murena is the former: Sulpicius the latter:

therefore, do not condemn a Murena, to make room for a Sulpicius.

(3) The needs of the moment are more pressing than the dangers of *ambitus*:

granting that Murena may have been guilty to some extent of the latter, he is the very man to meet the former:

therefore, look to the more patriotic side, and acquit Murena.

Such were the arguments which procured an acquittal; and, for aught I can see, they are very good ones. It mattered little that they were irrelevant to the charge (see Appendix A): they were such as Roman jurors could not resist; and the object was to persuade these. As to the style of the speech, it displays a decided archness and humour, as in the treatment of jurisprudence (§§ 19—30), and in that of the paradoxical dogmas of the Porch (§§ 61—65), in the description of Sulpicius' want of electioneering tact (§§ 43—47, cf Quintil XI 1 § 69), and of Cato's perverse refusal to recognize ordinary practices (§§ 68—77, cf Quintil XI 1 § 70). It is also remarkable for its moderation. This is without doubt due to the circumstances in which the speaker was placed. He was pleading on the opposite side to Cato and Sulpicius, two intimate friends; and it would not only have been distasteful, but have weakened his case, had he given the rein to oratorical vehemence. It is not to be wondered at that when Cicero fell upon the Stoics Cato smiled, and turning to the bystanders said 'sirs, how witty our consul is' (Plut Cato 21). If we turn to the scornful attack on the Epicureans in pro Sestio § 23 foll, we see how different a tone the orator could take when it suited him: and we know well that neither Cato nor Sulpicius made any difference in their feelings or behaviour towards Cicero after the delivery of this speech.

To give some idea of the opinion entertained of the speech by a great critic, it may be well to mention that it is alluded to by Quintilian no less than sixteen times, most of these taking the form of quotations in illustration of some rhetorical figure or device. It supplies also a first-rate instance of varied expression, for jurisprudence and its practice are spoken of by seventeen different names (§§ 9, 19, 22—25, 28—30). The humorous appli-

cation of the phraseology of the Porch (§§ 3, 60, 77) is also worthy of notice, while the artful introduction of the argument from state-expediency (§§ 78—80) is beyond all praise. The inaccuracies as to matters of fact, which are commented on in the notes, do not detract from the merit of the speech: as instances of oratorical intensification (δείνωσις, Quintil V 2 § 24) we may refer to the pictures of Mithridates (§§ 32—34) and of the dangers to be dreaded from the accomplices of Catiline (§§ 78—85).

It is always to be remembered that we have the speech not as it was delivered (see on § 57), but as it was prepared for publication; and it is not unlikely that some of the more finished passages (such as §§ 62—65) received their last touch after the trial.

[Sed in his quidem, in quibus vel iudici vel etiam astantibus ratio nostrae moderationis probari debet, minor est labor; illic plus difficultatis, ubi ipsos, contra quos dicimus, veremur offendere. duae simul huiusmodi personae Ciceroni pro Murena dicenti obstiterunt, M Catonis Serviique Sulpicii. quam decenter tamen Sulpicio, cum omnes concessisset virtutes, scientiam petendi consulatus ademit! quid enim aliud esset, quo se victum homo nobilis et iuris antistes magis ferret? ut vero rationem defensionis suae reddidit, cum se studuisse petitioni Sulpicii contra honorem Murenae, non idem debere actioni contra caput, diceret! quam molli autem articulo tractavit Catonem! cuius naturam summe admiratus non ipsius vitio sed Stoicae sectae quibusdam in rebus factam duriorem videri volebat; ut inter eos non forensem contentionem sed studiosam disputationem crederes incidisse. haec est profecto ratio, et certissimum praeceptorum genus illius viri observatio, ut, cum aliquid detrahere salva gratia velis, concedas alia omnia: in hoc solo vel minus peritum quam in ceteris, adiecta, si poterit fieri, etiam causa, cur id ita sit, vel paulo pertinaciorem vel credulum vel iratum, vel impulsum ab aliis. hoc illis commune remedium est, nisi in tota actione aequaliter appareat non honor modo sed etiam caritas. praeterea causa sit nobis iusta sic dicendi, neque id moderate tantum faciamus sed etiam necessario. Quintil XI 1 §§ 68—72.]

ABSTRACT OF THE SPEECH.

I *Exordium.* (*a*) §§ 1, 2 to *tueatur.*

The solemn prayers I uttered as presiding officer at the late election bind me to wish well to the candidates whose names I then published as elected consuls. You, gentlemen, are now the representatives of Heaven; I would claim your protection for Murena.

(*b*) §§ 2 *et quoniam* to 10.

I have been reproached for undertaking this case: let me then begin by justifying myself, that my words may have weight. First I must protest against Cato's Stoic severity, and maintain, that as presiding consul I am the very man to plead for Murena. He has a claim upon me for defence of his title to office. I have just coped with Catiline; is it not human nature to feel anxious for one who is to meet the dangers I have faced? again, we must have our two consuls to open this next critical year. What if I did pass a law for the prevention of corrupt practices? May I not plead for the guiltless? I dealt severely with Catiline, it is true, but I acted perforce an uncongenial part: I do but follow my natural bent in pleading for Murena. As for you, Sulpicius, it is too bad of you to say that I act unfriendly by you; but I will calmly defend myself. Did I not support you as a candidate? yes, but to expect me to help in crushing Murena is really going too far. He is an old friend and even you shall not make me desert him. Besides, neither my professional standing, my feelings, nor my conscience would suffer me to decline the work of his defence. Look at yourself: who but Servius gives advice to everybody? How otherwise would most men get advocates? I will not listen to such charges: I will be gentle with you, but I will plead for my friend Murena.

II *confutatio*, §§ 11—83 *ad quod velis negotium*

(1) *de vita Murenae* §§ 11—14.

How weak are the charges on this score! the prosecution felt bound to say something. As to his career in Asia, it was one of hard campaigning: it was his duty to go; and why should he not adorn his father's triumph? Asia is Asia, I grant; but whether is the better, to avoid temptation, or to withstand it? the whole affair is a credit to him. As for his being a mountebank, you ought to know better, Cato, than to talk in that vein. The charge is unsubstantiated and quite out of character. You can bring nothing against my client under this head; out of the mouths of the prosecution I shew that he is without reproach.

(2) *contentio dignitatis*, §§ 15—53.

Your claims to the consulship are very strong, Sulpicius; but so are those of Murena: you are just a match. Your depreciation of his family and puffing-up of your own is partial and not based on fact. Your family is better known to book-worms than to the people. I count you as a self-raised man, and all credit to you for it. I did hope that my exertions had gone some way towards stopping the mouths of the proud old families. I got the consulship against two patricians. Why not? You were above Murena on the roll of quaestors, you say. A mere piece of luck; and as quaestors neither of you distinguished himself much. Here you widely diverge from one another. While you went through all the labour and annoyance of a jurist's life at Rome, Murena was in the East, displaying all the most soldierly qualities as lieutenant of Lucullus. Now I for my part had rather not have brought out this contrast so strongly; but you have driven me to it. The fact is, Sulpicius, men were tired of you. I have felt the same thing myself. And clearly the soldier has far higher claims to office than the jurist. Rome and all in or under it are protected by soldiers. They are our guardians. You must not think too highly of your learning as a jurist: your other merits give you far more claim to distinction than jurisprudence ever will. The three great avenues to honour must rank thus, 1 military skill, 2 the eloquence of the statesman and pleader, 3 jurisprudence. The last cannot compare with the other two; it is paltry, and your hidden lore has long since been made public property. You now take your stand upon

words and forms which are easier to ridicule than to explain. The proceedings before the praetor in cases of disputed title to property are foolish and absurd: the dependence of women, and the maintenance of sacred rites, ordinances of our ancestors, have alike been tampered with by these men of wordy wisdom. Yet they often cannot tell which of two words is the right one, and so use both. As I said before, this study has not the making of a consul in it: it is too paltry, it does not confer obligations: it is tied down to a certain time of the year, and is worthless beyond the walls of Rome. It is a small, easy matter; give me two clear days, and I will come out as a jurist. Again, oratory too is a pursuit far better adapted for a public career than jurisprudence. Many a jurist has begun life as a public speaker and failed; jurisprudence was but his second string. Think of the exertions the orator must make, and the power he wields when he has made them. A man, I say, can rise to the top of the political tree in two ways,—either as a soldier or as a public speaker. I set aside your undoubted personal merits, Servius; we are talking of rising to office. In times of war and civil strife, when confusion reigns and all peaceful pursuits are at a standstill, who form the bulwark of the state? The army, to be sure. Then yield the palm to the soldier, for such as he have made Rome what she is. As for Cato's depreciation of Murena's military services and his contempt for Orientals, I can only say that it is not justified by history. If, Cato, you consider the great resources and ability of Mithridates, the resistance he offered to our arms, his vast schemes, the investment of Kyzikus and the sea-fight off Tenedos, the anxiety of the Senate and people, the glory won by Lucullus and Pompeius, you will change your tone in reference to Eastern warfare. And I maintain that in it Murena displayed the greatest firmness generalship and energy, and that this gave him as good a claim to the consulship as all our civil business-duties. Oh, but when you both were elected praetors, you were returned before him on the roll. Well, but you have no agreement to that effect with the people. And who does not know the uncertainty of the tide of popular favour, and the strange results of elections? Their whole working defies calculation. But we know of two things that went against Murena in the praetorian election, (1) his having never given any public shows, (2) the absence of those who had known his merits as a general or

governor of a province. All this was reversed when he stood for the consulship. You do not appreciate the force of the army vote and the splendid games of Murena in gaining him the consulship. This is not all: look at the difference of your luck and his in the allotment of praetorial functions. He had all the openings for winning popularity, you of giving offence. Then he took a province, and earned the affections of many; you were doing your duty at Rome. Do not forget that a provincial governor can give his friends a lift now and then; yours were no doubt disappointed in you. But to be plain with you, it was all your own fault that you lost the consular election. You gave yourself up to preparations for this trial; and, as I told you, the consequence was that your friends held back then, in order to support you in court, the people would not waste votes on a man who gave up all for lost, and your own time was taken up with matters which interrupted your canvass. You are fitter to conduct a trial than to canvass for office. Again, your threats and denunciations in the Senate in the debate on the new bribery law, the extreme measures you advocated, and some of which you carried, all went against you with the people. Above all, you made us afraid that Catiline would be elected while you wasted your time on other things. Of course people voted for Murena, as the only way to save the state. Catiline was exultant, you were depressed: remember the troubles we had had with that ruffian already; think of my breastplate on the election day, of all the qualifications of Murena for the office, and the tact he shewed in his canvass; and you will not wonder at the result.

(3) *de ambitus criminibus*, §§ 54—83.

I must now deal with the specific charges: but first I will remark that Murena is hardly used. The time and the accusers are such as one would scarcely have looked for.

Now for Cato, the prop and stay of the case for the prosecution. I fear the weight he may carry with the jury more than the charges he can bring. As for the weight of his character, I say that it ought rather to incline the jury favourably towards the accused, than to tell against him. Romans are not wont to be the slaves of a great name and reputation. The accuser cannot be jury as well. Besides, you push things too far, Cato: naturally upright

and strict, you have been trained into a sort of perverseness and bitterness by the Stoic principles which you have imbibed. The stiff morality of the Porch is utterly unpractical; their paradoxical dogmas break down when applied to real life. Had you been an Academic or a Peripatetic you had been, not perhaps a better, but a gentler man: you would never have shewn such animosity against Murena. Yet I think that with age you will come round; you are now still a young man, and fresh from the study of Stoic ethics. Even your masters do not expect people to act fully up to their high-pitched theories. We have often seen that Stoicism is consistent with courtesy and good feeling. Think of your great-grandfather. The name 'Cato,' then, must be set aside: let us to the charges. You say with truth that a decree of the Senate defines certain practices as bringing candidates under the Calpurnian law. But when you come to apply this to the case of Murena you fail in each separate charge to prove what is the real point. You take popularity to be a proof of bribery, and hospitality of treating. You are impugning, not the acts of Murena, but the usages of political life. Your criticisms on the morality of entertaining citizens at election-time are carried too far, and are diametrically opposed to Roman habits and ways of thinking. You confound public munificence with personal luxury. Remember how ridiculous Tubero made himself by crossgrained application of dogmas out of season. Besides, if you must be very nice as to the moral bearing of every little thing, how about your own canvass? Fie, fie, Cato, on your affectation deceitfulness and time-serving. What would the Stoics say? You took up this prosecution, you say, for the public weal. No doubt you mean well, but you are mistaken. Mine is the side of true patriotism. Think, gentlemen of the jury, of Catiline's accomplices in the city. Do not play their game: we shall want our two consuls for the new year. This is a critical time: frightful plans are formed against Rome by her own degenerate children. My magistracy is drawing to its close; leave me my successor. Think, Cato, on all this; remember that the plots of years are coming to a head now: see the danger in which I stand, and give heed to your own. It is your manifest duty to help in securing for this crisis the services of such a man as Murena in the consulship.

III *peroratio*, §§ 83 *quamquam* to end.

Gentlemen, all rests on you. Surely you will not play Catiline's game for him: the hour is come; take away our next year's consul, and the State is lost. In the name of our country, on behalf of Murena, I appeal alike to your patriotism and your mercy for an acquittal. Do this, and I can assure you that in so doing you will have done what is for the best.

ABBREVIATIONS USED IN THE NOTES.

Mommsen = Mommsen's History of Rome, English translation.
Madvig = Madvig's Latin Grammar, English translation, 4th ed.
Madvig de fin = Madvig's edition of the *de finibus*, 2nd ed 1869.
Ritter and Preller = Ritter and Preller's Historia Philosophiae Graecae et Romanae, 4th ed 1869.
Zeller = Zeller's 'Stoics Epicureans and Sceptics' translated by Reichel. 1870.
Festus is referred to by the page of Müller's edition.
auct ad Herenn = author of the treatise *ad Herennium*.
auct petit cons = author of the treatise *de petitione consulatus*.

M TULLI CICERONIS

ORATIO

PRO L MURENA

AD IUDICES.

I. QUOD precatus a dis immortalibus sum, iudices, more **1**
institutoque maiorum illo die, quo auspicato comitiis centuriatis L Murenam consulem renuntiavi, ut ea res mihi, fidei magistratuique meo, populo plebique Romanae bene atque

i. 1. *quod precatus......*] the opening words of the speech *post reditum ad Quirites* closely resemble these. The MSS here give *deprecatus* which will not make sense. The reading indicated by *precor* and *precatus sum* following is established by Quint IX 4 § 107, where this opening is quoted with the remark *creticus initiis optimus*. The presiding magistrate offered up a formal prayer after the election. Compare Liv XXXIX 15, *sollemne carmen precationis*.

auspicato] the ablative of the perfect participle often stands singly thus. Compare Madvig § 429 obs 1, Liv V 38.

renuntiavi] 'declared duly elected.' The consuls settled by lot or agreement which should act as returning officer at the elections for the following year.

fidei] a correction of Lambinus from the *fides* of some MSS. My 'honour,' 'trustiness.' Sorof well points out that the words are part of a traditional formula, and Halm compares the old form of words quoted by Varro L L VI § 86, *quod bonum fortunatum felixque salutareque siet populo Romano Quiritium reique publicae populi Romani Quiritium mihique collegaeque meo fidei magistratuique nostro.*

magistratuique] *que* as often only with the last of the series. Two more instances of this occur in this very section.

populo plebique] this phrase is a survival from a time when the *plebs* were a mass of dependent aliens outside the *populus = patricii*, the latter alone being burgesses and engrossing all political power. We find it elsewhere, as in the title of *ad fam* X 35, II in Verrem V § 36 and in the latter of the *carmina Marciana* quoted in Liv XXV 12. Cicero is here no doubt giving the exact words of the old prayer. See Mommsen, bk I cc 5, 6, Dyer, Hist of Kings of Rome, p 301.

bene atque feliciter] also formal. Compare Plin Paneg 72 *nam quod precatus es, ut illa ipsa ordinatio comitiorum bene ac feliciter eveniret, nobis, rei publicae, tibi.*

feliciter eveniret, idem precor ab isdem dis immortalibus ob eiusdem hominis consulatum una cum salute obtinendum, et ut vestrae mentes atque sententiae cum populi Romani voluntatibus suffragiisque consentiant eaque res vobis populoque Romano pacem, tranquillitatem, otium concordiamque adferat. quodsi illa sollemnis comitiorum precatio consularibus auspiciis consecrata tantam habet in se vim et religionem, quantam rei publicae dignitas postulat, idem ego sum precatus, ut eis quoque hominibus, quibus hic consulatus me rogante datus esset,
2 ea res fauste, feliciter prospereque eveniret. quae cum ita sint, iudices, et cum omnis deorum immortalium potestas aut translata sit ad vos aut certe communicata vobiscum, idem consulem vestrae fidei commendat, qui antea dis immortalibus commendavit, ut eiusdem hominis voce et declaratus consul et defensus beneficium populi Romani cum vestra atque omnium civium salute tueatur.

et quoniam in hoc officio studium meae defensionis ab accusatoribus atque etiam ipsa susceptio causae reprehensa est,

ob obtinendum] 'for the purpose of making good.' Sorof. *salus* = acquittal.

et ut] refer closely to *idem* (neut), then it = *precor ut ea res feliciter eveniat et ut*......Halm.

comitiorum] prayer 'at' elections. Genitive of possession or relation. Compare § 31 *victoriae eorum bellorum*, § 73 *officium necessitudinis*, § 56 *odio inimicitiarum*, § 63 *adiumenta doctrinae*, also § 64 *rei publicae vinculo*, § 71 *fructum officii*, div in Caecil § 14 *officium necessitudinis*, I in Verrem § 54 *oblivionem diuturnitatis*. See Nägelsb Stil § 100, p 275.

religionem] 'sanctity.' Halm compares pro Rosc Am § 66, *magnam vim magnam necessitatem magnam possidet religionem paternus maternusque sanguis*.

idem ego......] *i e* so solemn is the prayer, that my use of it implies a prayer for the weal of those elected. Zumpt.

me rogante] = *me comitia habente*. The full phrase is *consul populum consulem rogat*, compare Liv III 65 *qui plebem Romanam tribunos plebi rogaret* and VI 42 end of book. Halm.

2. *potestas*......] Matthiae compares pro Rabirio § 5 *vos, quirites, quorum potestas proxime ad deorum immortalium numen accedit*.

qui] on consideration of the MSS authority (Lag 9 alone having *quem*), I now read thus and accept Halm's *consulem* above as the best emendation of the corrupt *consul ei*.

beneficium] the distinction just granted him. Compare §§ 3, 86, 90. Halm.

cum] 'to the preservation of'... compare pro Planc § 102 Madvig § 257 obs 5.

et quoniam....*ante quam*....*dicam*] See Madvig § 476 b.

ante quam pro L Murena dicere instituo, pro me ipso pauca dicam, non quo mihi potior hoc quidem in tempore sit officii mei quam huiusce salutis defensio, sed ut meo facto vobis probato maiore auctoritate ab huius honore, fama fortunisque omnibus inimicorum impetus propulsare possim.

II. et primum M Catoni vitam ad certam rationis normam 3
derigenti et diligentissime perpendenti momenta officiorum omnium de officio meo respondebo. negat fuisse rectum [Cato] me et consulem et legis ambitus latorem et tam severe gesto consulatu causam L Murenae attingere. cuius reprehensio me vehementer movet, non solum ut vobis, iudices, quibus maxime debeo, verum etiam ut ipsi Catoni, gravissimo atque integerrimo viro, rationem facti mei probem. a quo tandem, M Cato, est aequius consulem defendi quam a consule? quis mihi in re publica potest aut debet esse coniunctior, quam is, cui res publica a me uno traditur sustinenda, magnis meis laboribus et periculis sustentata? quodsi in his rebus re-

pro me ipso] Cicero is here seeking to secure *benevolentia* by self-justification. Halm compares de Inventione I § 22.

instituo] for indicative see Madvig § 339, obs 2 c.

non quo...sed ut] Madvig § 357 b obs.

hoc in tempore] Sorof well compares pro Sulla §§ 1—2 as generally parallel to this passage.

ii. 3. *rationis*] a system of philosophy, namely the Stoic. Halm. Compare de off III § 20 *erit autem haec formula Stoicorum rationi disciplinaeque maxime consentanea*, Acad I § 34 *qui primi Platonis rationem auctoritatemque susceperant.* Seneca dial XII 9 § 3 says *omnium officiorum recte dispensandorum ratio.*

ad normam] *πρὸς κανόνα*. *derigenti.* See on § 77.

momenta] 'the relative weight, claims of'...compare § 18 *pari momento sortis.* Orator § 47 *argumentorum momenta*, and so *rationum, verborum*, &c.

perpendenti] see on § 77.

officio] 'service,' *i.e.* the defence of Murena. So § 2 *in hoc officio.*

rectum] a Stoic word, purposely used here = *κατόρθωμα*, compare de off I § 8, de fin III § 24. See on §§ 60, 77.

legis] sc *Tulliae de ambitu*, passed in this very year. See on §§ 46, 47, 67.

uno] Lambinus' correction of MSS *una*. Cicero had held the election himself, and his colleague C Antonius Hybrida was away from Rome at this time, fighting Catilina. Hence too we see that the oratorical prolepsis in *traditur* is not unnatural. Zumpt. Sorof however objects that the *renuntiatio* and handing over the office to a successor are two very different things. Halm conjectures *una cum consulatu.*

sustentata] *sustenta* is not used.

his] with Zumpt and all MSS 'these every-day things.' See on § 24.

repetendis] that is when B has

petendis, quae mancipi sunt, is periculum iudicii praestare debet, qui se nexu obligavit, profecto etiam rectius in iudicio consulis designati is potissimum, qui consulem declaravit, auctor beneficii populi Romani defensorque periculi esse de-
4 bebit. ac si, ut nonnullis in civitatibus fieri solet, patronus huic causae publice constitueretur, is potissimum summo honore adfecto defensor daretur, qui eodem honore praeditus non minus adferret ad dicendum auctoritatis quam facultatis. quodsi e portu solventibus ii, qui iam in portum ex alto invehuntur, praecipere summo studio solent et tempestatum rationem et praedonum et locorum, quod natura fert, ut eis faveamus, qui eadem pericula, quibus nos perfuncti sumus, ingrediantur:

sold a thing to C, and A claims it as his own, maintaining that B never owned it, and therefore had no right to sell it. B is bound either to prove the soundness of his own (and therefore of C's) title to the property, or to make up to C the loss which ensues upon A's making good his claim. The process is technically called *evictio rei venditae*. Compare Jul Paullus sentent II 17 § 1 *venditor si eius rei quam vendiderit dominus non sit, pretio accepto auctoritatis manebit obnoxius* etc.

quae mancipi sunt] *res mancipi* are things the transfer of which could only be accomplished by *mancipatio* or *in iure cessio*. See on § 26. *mancipatio* was a form of transfer by a symbolic sham-sale: the price was not paid by number but by weight. A man with a pair of scales (*libripens*), who must be of full age (*impubes libripens esse non potest*, Ael Gallus, fragm 6) and a small piece of money (*negotium per aes et libram*) were necessary, and 5 witnesses, Roman citizens of full age. *res mancipi* are enumerated by Ulpian XIX 1, as *praedia in Italico solo*, *iura praediorum rusticorum*, and *servi et quadrupedes quae dorso collove domantur*. All other things are *nec mancipi*. As according to Aelius Gallus, fragm 9 *nexum est quodcunque per aes et libram geritur*, *mancipatio* must have been a kind of *nexum*. Compare Gaius II 27, M' Manilius, fragm 5, Q Mucius Scaevola, fragm 5. (For *mancipatio* see Maine's Ancient Law ed IV Lecture 6 p 204 foll, for *res mancipi* lect 8 p 277 foll, for *nexum* and the early confusion of the notions of contract and conveyance lect 9 p 314 foll).

is...qui] the *venditor* who had to guarantee the title to the property sold.

praestare] *emptori*. Here Cicero is bound to make good the title to the consulship for Murena, to be in fact the *auctor secundus*. Compare pro Caec § 27 *Caesennius auctor fundi*, II in Verr V § 56.

4. *nonnullis*] Matthiae refers to the Athenian σύνδικοι, οι συνήγοροι. Hermann Pol Ant § 133.

praecipere] 'give warning.' So pro Planc § 59, Plautus mil glor 247 *et Philocomasio id praecipiundumst ut sciat*.

praedonum] compare Thuc I 5, Odyss III 71 foll.

qui ingrediantur] = *quos ingredi scimus*. Matthiae.

The passage *quodsi......subeundas*

quo tandem me esse animo oportet, prope iam ex magna iactatione terram videntem, in hunc, cui video maximas tempestates rei publicae esse subeundas? quare, si est boni consulis non solum videre quid agatur, verum etiam providere quid futurum sit, ostendam alio loco, quantum communis salutis intersit duos consules in re publica Kalendis Ianuariis esse.
quod si ita est, non tam me officium debuit ad hominis amici 5
fortunas quam res publica consulem ad communem salutem defendendam vocare. III. nam quod legem de ambitu tuli, certe ita tuli, ut eam, quam mihimet ipsi iam pridem tuleram de civium periculis defendendis, non abrogarem. etenim si largitionem factam esse confiterer idque recte factum esse defenderem, facerem improbe, etiam si alius legem tulisset: cum vero nihil commissum contra legem esse defendam, quid
est quod meam defensionem latio legis impediat? negat 6
esse eiusdem severitatis, Catilinam exitium rei publicae intra moenia molientem verbis et paene imperio ex urbe expulisse et nunc pro L Murena dicere. ego autem has partes lenitatis et misericordiae, quas me natura ipsa docuit, semper egi libenter, illam vero gravitatis severitatisque personam non adpetivi, sed

is quoted by Quintil V 11 § 23. Tischer compares for *rationem* §§ 35, 76, where it occurs with *comitiorum* and *officiorum*. It = the system of...'how it is with' the weather.

rei publicae] 'political' storms. Halm.

providere] so de fin I § 47 *nec quid eventurum sit provident*, II in Verr V § 22.

alio loco] §§ 79 foll.

5. *me*] sc as a friend, in a private capacity. 'friendship.'

res publica] 'my country's interests,' 'patriotism.'

iii. *eam*] *legem* = habit grown into a rule. Compare § 11 *lex accusatoria*.

abrogarem] looking back, as Halm says, to the time of passing the law. 'When I passed ...... I did not mean to......'. For the change of tense Sorof compares pro Sulla § 58 *qui ita Romae debuit ut in provinciis et in regnis ei maximae pecuniae deberentur*. Zumpt adopts *abrogarim*, the plausible conjecture of Wesenberg.

defenderem] 'maintain,' as often. Compare § 34.

defensionem] strictly 'defence' of Murena.

6 *negat*] oratorical repetition from § 3. Zumpt.

imperio] exercise of official power. Wendt renders 'machtspruch.'

ego autem] 'I reply that'...

partes] metaphor from the stage. so *docuit*, *egi*, *personam*, and *impositam sustinui*. Matthiae compares pro Sulla § 8.

ab re publica mihi impositam sustinui, sicut huius imperii dignitas in summo periculo civium postulabat. quodsi tum, cum res publica vim et severitatem desiderabat, vici naturam et tam vehemens fui quam cogebar, non quam volebam, nunc, cum omnes me causae ad misericordiam atque humanitatem vocent, quanto tandem studio debeo naturae meae consuetudinique servire! ac de officio defensionis meae ac de ratione accusationis tuae fortasse etiam alia in parte orationis dicendum nobis erit.

7 sed me, iudices, non minus hominis sapientissimi atque ornatissimi, Ser Sulpicii, conquestio quam Catonis accusatio commovebat, qui gravissime et acerbissime se ferre dixit me familiaritatis necessitudinisque oblitum causam L Murenae contra se defendere. huic ego, iudices, satis facere cupio vosque adhibere arbitros: nam cum grave est vere accusari in amicitia, tum, etiam si falso accuseris, non est neglegendum. ego, Servi Sulpici, me in petitione tua tibi omnia studia atque officia pro nostra necessitudine et debuisse confiteor et praestitisse arbitror. nihil tibi consulatum petenti a me defuit, quod esset aut ab amico aut a gratioso aut a consule postulandum. abiit illud tempus, mutata ratio est. sic existimo, sic mihi

imperii] i e *consularis*. Compare in Catil I § 12. Halm. Perhaps the decree of the Senate (Oct 25), *videant consules ne quid detrimenti respublica capiat*, is also alluded to.

nunc cum vocent] 'now feeling as I do that every reason calls me to'... *cum* = 'since' denoting the occasion, compare *cum sint* § 8 and see Madvig § 358.

servire] a strong word weakened by usage. Stronger is *inservire*, and strongest of all *deservire*. Zumpt.

alia in parte] § 67 foll.

7 *sapientissimi*] here as often of a learned jurist. Compare Laelius § 6.

conquestio] not in the technical sense of de invent I § 106, but as again in Cicero (§ 72, ad Q fratrem I I § 22) simply 'complaint.' Zumpt.

familiaritatis necessitudinisque] probably a hendiadys, as Sorof thinks.

satis facere] to justify myself in his eyes. This, as well as *adhibere arbitros*, is a legal expression. Compare § 27, *iudicem an arbitrum*.

accuseris] Zumpt remarks that this is one of the few instances of the second person singular passive in *ris* found in Cicero. Compare Madvig § 114 b.

a me] 'on my part.' Halm compares pro Milone § 100 *tibi nullum a me amoris nullum studii nullum pietatis officium defuit*.

gratioso] a substantive. See Nägelsb stil § 25 b page 81.

abiit] i e *frustra*. Compare pro

persuadeo, me tibi contra honorem L Murenae, quantum tu a me postulare ausus es, tantum debuisse, contra salutem nihil debere. neque enim, si tibi tum, cum peteres consulatum, favi, 8
nunc, cum Murenam ipsum petis, adiutor eodem pacto esse debeo. atque hoc non modo non laudari, sed ne concedi quidem potest, ut, amicis nostris accusantibus, non etiam alienissimos defendamus. IV. mihi autem cum Murena, iudices, et magna et vetus amicitia est, quae in capitis dimicatione a Ser Sulpicio non idcirco obruetur, quod ab eodem in honoris contentione superata est. quae si causa non esset hominis, tamen honoris eius, quem adeptus est, amplitudo summae mihi superbiae crudelitatisque famam inussisset, si hominis et

Sest § 72 *abiit ille annus.* Zumpt. 'that season is past; circumstances have changed.'

postulare ausus es] 'had the face to claim from me.' In Greek ἀξιοῦν ἐτόλμησας. For matter compare Quint XI 1 § 69.

8 *favi*] I still incline to this reading, though resting solely on the authority of MS Lag 9, in preference to *adfui*, a correction from *abfui* of another MS, which Halm adopts. *faveo* is commonly used in the sense of supporting a candidate at an election.

petis] the indicative is required here, as the action is only referred to a certain time and *cum* = 'at the time when.' See Madvig § 358 and compare div in Caecil § 69 *quod in me nunc simulant sese mirari, quum moleste ferunt*, de off III § 74 *qui non defendit iniuriam neque propulsat, cum potest, iniuste facit.* In § 6 *cum vocent* contains a different notion, quite inappropriate here. I therefore keep *petis* which is found in MS Lag 9 and accepted by Zumpt with the approval of Kayser, rejecting *petas* which is in most of the MSS.

hoc] this principle, viz that...... Compare pro Sulla § 49 *intellegebat hanc nobis a maioribus esse traditam disciplinam, ut nullius amicitia ad pericula propulsanda impediremur.* Halm.

accusantibus] properly applied to those who bring a criminal charge. The accuser in a civil case (*causa privata*) was called *petitor*. Compare pro Quinctio § 45 *petitoris personam capere, accusatoris deponere.* The whole language of this and the adjoining sections is applicable only to Cicero's pleadings in *causae publicae.*

etiam alienissimos] compare §§ 45, 56.

iv. *capitis*] 'ten years exile had been added by the *lex* Tullia to expulsion from the Senate. See Dion Cassius XXXVII 29.

obruetur] compare Ovid amor III 1 40 *obruit exiguas regia vestra fores*, and below § 86.

honoris contentione] see on § 11, and for genitive compare Madvig § 283 obs 3.

superata est] it yielded to my friendship for Sulpicius.

quae si causa non esset hominis, tamen...] so I much prefer to read with Zumpt, led by MS Lag 9. 'even were he not a personal friend, still'...

famam] so *notam, ignominiam* etc

suis et populi Romani ornamentis amplissimi causam tanti periculi repudiassem. neque enim iam mihi licet neque est integrum, ut meum laborem hominum periculis sublevandis non impertiam. nam cum praemia mihi tanta pro hac industria sint data, quanta antea nemini, sic existimo, quibus ceperis, ea, cum adeptus sis, deponere, esse hominis et astuti
9 et ingrati. quodsi licet desinere, si te auctore possum, si nulla inertiae, nulla superbiae, nulla inhumanitatis culpa suscipitur, ego vero libenter desino: sin autem fuga laboris desidiam, repudiatio supplicum superbiam, amicorum neglectio improbitatem coarguit, nimirum haec causa est eius modi, quam nec industrius quisquam nec misericors nec officiosus deserere possit. atque huiusce rei coniecturam de tuo ipsius studio, Servi, facillime ceperis. nam si tibi necesse putas etiam adversariis amicorum tuorum de iure consulentibus respondere, et si turpe existimas te advocato illum ipsum, quem contra veneris, causa cadere, noli tam esse iniustus, ut, cum tui fontes

inurere. Here *fama*=bad name. so Virg Aen VI 527 *et famam exstingui veterum sic posse malorum*.

integrum, *ut*...] Halm compares Tusc disp v § 62 *ei ne integrum quidem erat ut ad iustitiam remigraret*. Madvig § 374 obs 2.

sic existimo......ingrati] I still retain this reading, though it is only Zumpt's restoration of MS Lag 9, because I find no better. At the same time I feel certain that Cicero never wrote the above. The sentence is too corrupt for a certain restoration. Steinmetz well compares a fragment of Cato the censor, *nam periniurium siet*, *cum mihi ob eos mores*, *quos prius habui*, *honos detur*, *ubi datus est*, *tum uti eos mutem atque alii modi sim*.

9 *te auctore*] on your authority or responsibility. so de orat III § 54 *quare istos omnes me auctore deridete atque contemnite*.

vero] lays stress on *ego*. 'I for my part am quite ready to do so.' Compare ad fam IV 6 *ego vero, Servi, vellem*...ad Q fratrem II 7 (9) § 1.

studio] 'line,' 'profession.' Compare §§ 66, 75, Lucil incert 4 *uni se adque eidem studio omnes dedere et arti*.

coniecturam] compare § 44.

Servi] with friendly familiarity he uses the *praenomen* only, here and elsewhere in the speech, when addressing Sulpicius; so with Cato, § 13. Zumpt compares Hor Sat I 15 32 *gaudent praenomine molles auriculae*.

respondere] see on § 19.

te advocato] 'when your opinion is taken.' *advocatus* in Cicero's time= a backer, hence any legal assistant: not an 'advocate,' as in later authors. compare Phil I § 16, pro Caec §§ 24, 43, Ter adelph IV 5 43.

causa cadere] to be non-suited for informality in pleading. Zumpt

vel inimicis tuis pateant, nostros etiam amicis putes clausos esse oportere. etenim si me tua familiaritas ab hac causa 10
removisset et si hoc idem Q Hortensio, M Crasso, clarissimis viris, si idem ceteris, a quibus intellego tuam gratiam magni aestimari, accidisset, in ea civitate consul designatus defensorem non haberet, in qua nemini unquam infimo maiores nostri patronum deesse voluerunt. ego vero, iudices, ipse me existimarem nefarium, si amico, crudelem, si misero, superbum, si consuli defuissem. quare quod dandum est amicitiae, large dabitur a me, ut tecum agam, Servi, non secus ac si meus esset frater, qui mihi est carissimus, isto in loco: quod tribuendum est officio, fidei, religioni, id ita moderabor, ut meminerim me contra amici studium pro amici periculo dicere.

v. intellego, iudices, tris totius accusationis partes fuisse et 11
earum unam in reprehensione vitae, alteram in contentione

compares de orat I § 166, ad fam VII 14. Gaius IV 68, Jul Paullus I 10.

inimicis tuis] rhetorical = *inimicis amicorum tuorum*. Halm.

10 *voluerunt*] not a law, but customary in the praetor's edict. Tischer.

non secus ac] *non aliter ac*, but *non secus quam* = *non minus quam*. Zumpt, who compares for the latter de legibus II § 5 *dulcis autem non multo secus est ea* (*patria*) *quae genuit quam illa quae excepit*.

esset] on considering the MSS authority, I am now convinced that Halm is right in keeping this reading.

isto in loco] the seat of the counsel for the prosecution. Compare pro Flacco § 22, pro Rosc Am § 32 *ad subsellia*.

officio — fidei — religioni] 'duty,' 'honour,' 'conscience.' A fine climax.

pro amici periculo] 'on behalf of a friend in danger.' the abstract for concrete. See on § 16 *annalium vetustate*, § 47 *morbi excusationi*. *periculum* is the regular word for the risk run by the accused in criminal trials. See on § 8 *accusantibus*, and compare Quintil VI 1 § 36 *de accusatoribus et reis sum locutus, quia in periculis maxime versatur affectus. sed privatae quoque causae utrumque habent perorationis genus*.

v. 11. The whole of this *partitio* is quoted and praised by Quintil IV 5 § 12. In VII 1 § 12 he remarks *anteactae vitae crimina plerumque prima purganda sunt, ut id, de quo laturus est sententiam iudex, audire propitius incipiat*. Compare also VII 2 §§ 33—35, IV 5 § 3. See also Cicero's remarks in de orat II § 80, div in Caecil § 45.

contentione dignitatis] 'in contrasting his claims to the consulship with those of his rivals.' so § 14 and in Pison § 51 *fortunarum contentionem*. Otherwise in §§ 8, 56 *honoris contentione*, and de off III § 87 where *contentio honorum* = struggle for office, also in the *contentio honesti et utilis* of book III.

dignitatis, tertiam in criminibus ambitus esse versatam. atque harum trium partium prima illa, quae gravissima debebat esse, ita fuit infirma et levis, ut illos lex magis quaedam accusatoria quam vera male dicendi facultas de vita L Murenae dicere aliquid coegerit. obiecta est enim Asia: quae ab hoc non ad voluptatem et luxuriam expetita est, sed in militari labore peragrata. qui si adulescens patre suo imperatore non meruisset, aut hostem aut patris imperium timuisse aut a parente repudiatus esse videretur. an cum sedere in equis triumphantium praetextati potissimum filii soleant, huic donis militaribus patris triumphum decorare fugiendum fuit, ut rebus
12 communiter gestis paene simul cum patre triumpharet? hic vero, iudices, et fuit in Asia et viro fortissimo, parenti suo, magno adiumento in periculis, solacio in laboribus, gratulationi in victoria fuit: et si habet Asia suspitionem luxuriae quandam, non Asiam numquam vidisse, sed in Asia continenter

ambitus] 'corrupt practices,' of which there were two main branches, (a) simple bribery of voters (*largitio*), and (b) the use of intimidation by bribed gangs (*sodalicia*). Festus defines it generally as *crimen adfectati honoris*.

lex] see § 5 note on *eam*.

male dicendi] even of true charges. Compare § 13.

Asia] i e his life in that province. for its reputation compare with Halm ad Q fratrem I 1 § 19, *corruptrix provincia*, also Tac Agr 6, Liv XXXIV 4, XXXIX 6, below § 20.

quae] adversative, as in pro Rosc Amer § 83. Halm. 'and yet it was not that he sought after its luxury, but'...

in militari labore] in the course of hard service in the field.

meruisset] *stipendia*.

imperium] hinting that the father was a martinet.

in equis] in the triumphal car sat with the general his children or near relations. The elder sons if still *praetextati* (*i e* not yet of age for taking the *toga virilis*) rode on the horses that drew near the car. Compare Tac Ann II 41, Suet Tib 6. Grown-up sons rode after the car on their own horses. Compare Liv XLV 40.

potissimum] 'are generally chosen to sit'...'by preference.' Compare §§ 75, 90, 3, 29.

donis] prizes for valour.

decorare] after *fugiendum fuit*. This construction is found in Cicero now and then, as in de orat III § 153. It is common in the poets, as Hor Carm I 9 13.

ut] = *ita ut*, as Matthiae remarks. So § 37 *ut putarent*. It is closely consecutive after *decorare*.

12 *vero*] certainly he was in Asia [and while there did himself credit].

Asia] see on § 11.

habet] see on § 68.

vixisse laudandum est. quam ob rem non Asiae nomen obiciendum Murenae fuit, ex qua laus familiae, memoria generi, honos et gloria nomini constituta est, sed aliquod aut in Asia susceptum aut ex Asia deportatum flagitium ac dedecus: meruisse vero stipendia in eo bello, quod tum populus Romanus non modo maximum, sed etiam solum gerebat, virtutis, patre imperatore libentissime meruisse pietatis, finem stipendiorum patris victoriam ac triumphum fecisse felicitatis fuit. maledicto quidem idcirco nihil in hisce rebus loci est, quod omnia laus occupavit.

VI. saltatorem appellat L Murenam Cato. maledictum **13**
est, si vere obicitur, vehementis accusatoris, sin falso, maledici conviciatoris. quare cum ista sis auctoritate, non debes, Marce, arripere maledictum ex trivio aut scurrarum aliquo convicio, neque temere consulem populi Romani saltatorem vocare, sed circumspicere, quibus praeterea vitiis adfectum

Asiae nomen] see on § 67 *nomen Catonis*.

laus......constituta est] the same put in different ways. This figure is called *expolitio*. see on § 55.

susceptum] goes in sense with *flagitium*, *deportatum* with *dedecus*. Some monstrous evil deed wrought in Asia, the scandal of which followed him to Rome. The same alternation of words may be seen in Tac Agr 5 *nec licenter neque segniter ad voluptates et commeatus* and elsewhere.

quidem] see on § 23, and compare div in Caecil § 48 *in clamando quidem*.

occupavit] has forestalled, and so left no room for an ill word.

vi 13. *saltatorem*] one who is in the habit of dancing (singly). 'a stage-dancer,' 'harlequin.' A great reproach. Zumpt refers to in Pison. § 22, *quumque ipse nudus in convivio saltaret*, and de off I § 150, III §§ 75, 93. Hor Sat II 1 24, Plato Menex 236 d, Xen Sympos ii 17—19, Ovid fasti V 338. Theophr *ἀκαιρίας* ad fin. Halm adds pro Deiot § 26.

maledici] the passage quoted generally in explanation of this is pro Caelio § 6 *aliud est male dicere, aliud accusare. accusatio crimen desiderat, rem ut definiat, hominem ut notet, argumento probet, teste confirmet. maledictio autem nihil habet propositi praeter contumeliam, quae si petulantius iactatur, convicium, si facetius, urbanitas nominatur*. 'an abusive scoffer.'

Marce] so *Servi* § 9 etc, but it may be better with Zumpt to follow MS Lag 9 in reading *M Cato*, as the familiarity of '*Marce*' addressed to Cato is at least unlikely.

convicio] squabble. 'set-to.' Of an exchange of abuse. Compare pro Archia § 12 *aures convicio defessae*. Hor Sat I 5 52 foll will illustrate the vulgar jesting of the *scurrae*, or 'diners-out.'

esse necesse sit eum, cui vere istud obici possit. nemo enim fere saltat sobrius, nisi forte insanit, neque in solitudine neque in convivio moderato atque honesto: tempestivi convivii, amoeni loci, multarum deliciarum comes est extrema saltatio. tu mihi arripis hoc, quod necesse est omnium vitiorum esse postremum, relinquis illa, quibus remotis hoc vitium omnino esse non potest. nullum turpe convivium, non amor, non comissatio, non libido, non sumptus ostenditur; et cum ea non reperiantur, quae voluptatis nomen habent quaeque vitiosa sunt, in quo ipsam luxuriam reperire non potes, in eo
14 te umbram luxuriae reperturum putas? nihil igitur in vitam L Murenae dici potest, nihil, inquam, omnino, iudices. sic a me consul designatus defenditur, ut eius nulla fraus, nulla avaritia, nulla perfidia, nulla crudelitas, nullum petulans dictum [in vita] proferatur. bene habet, iacta sunt fundamenta defen-

tempestivi] i e begun before the ninth hour, the usual time of the *cena* (Mart IV 8 6, *imperat exstructos frangere nona toros*) like Marius in Juven I 49, who *ab octava bibit*, and Nero in Suet Ner 27 Tac Ann XIV 2.

mihi] dat ethicus, as in §§ 21, 74. Halm.

arripis] see on § 62.

comissatio] feeding after dinner, almost 'dessert,' implying that the guests then 'take wine.' Sueton Dom 21 says *convivabatur frequenter ac large, sed paene raptim; certe non ultra solis occasum, nec ut postea comissaretur.*

voluptatis nomen habent] 'are called pleasure.'

quaeque] so I now read after Sorof and Halm, being convinced by the arguments of the former that the change is necessary. MSS *quamquam.*

umbram] = *comitem assiduam.* Halm. Zumpt compares in Pison § 57, *omnes umbras etiam falsae gloriae*, adding that there is probably in this passage a play on the sense of 'a guest introduced by a guest,' for which compare Hor Sat II 8 22, Epist I 5 28.

14 *in vitam*] 'against his life,' as the context shews; but the sense is not necessarily unfavourable. compare de off I § 28 *id quod apud Platonem est in philosophos dictum* and Dr Holden's note.

inquam] 'I repeat.'

omnino, iudices.] so I now read, following the emendation of Madvig, accepted by Halm and Sorof. The MSS have *iudicio*, which Zumpt connects with the following sentence, opposing it to *in vita = in reprehensione vitae* of § 11.

sic......ut] 'under such circumstances that.'

petulans] 'ill-natured.' Festus p 206 says *petulantes et petulci etiam appellantur qui protervo impetu et crebro petunt laedendi alterius gratia.*

dictum] 'jest.' compare Phil II § 42 *dicta dicere*, with Prof Mayor's notes.

in vita] in the course of his life.

sionis: nondum enim nostris laudibus, quibus utar postea, sed prope inimicorum confessione virum bonum atque integrum hominem defendimus. quo constituto facilior est mihi aditus ad contentionem dignitatis, quae pars altera fuit accusationis.

VII. summam video esse in te, Ser Sulpici, dignitatem 15
generis, integritatis, industriae ceterorumque ornamentorum omnium, quibus fretum ad consulatus petitionem adgredi par est. paria cognosco esse ista in L Murena atque ita paria, ut neque ipse dignitate *a te* vinci potuerit neque te dignitate superarit. contempsisti L Murenae genus, extulisti tuum. quo loco si tibi hoc sumis, nisi qui patricius sit, neminem bono esse genere natum, facis ut rursus plebes in Aventinum sevocanda esse videatur. sin autem sunt amplae et honestae familiae plebeiae, et proavus L Murenae et avus praetor fuit et pater, cum amplissime atque honestissime ex praetura triumphasset, hoc faciliorem huic gradum consulatus adipis-

compare ad Att V 20 § 6 *ego in vita mea nulla umquam voluptate tanta sum adfectus quanta adficior hac integritate.*

bene habet] this *simulatio* is quoted with approval, Quintil IX 2 § 26.

confessione] he has shown their statements to be groundless; and they have no more charges of this kind to bring. Halm well remarks that Cicero's words are strongly exaggerated.

virum......hominem] i e Murena as a public person and in his private life. So in § 16, div in Caecil § 56.

I believe that the ablatives *laudibus* and *confessione* are to be compared with such as *mea sententia*, *omnium testimonio*, etc, Madvig § 255, obs 3. 'Not to forestall the praises which I shall presently bestow upon Murena, I may almost say that the unwilling admissions of his adversaries lead us to think my client a worthy citizen and a man of unsullied character.'

contentionem] see on § 11.

vii 15 *loco*] that head of your speech under which you brought in your disparagement of Murena's family.

in Aventinum] incorrect, according to Liv II 32, unless the reference be to the same thing as the *coetus nocturni* of Liv II 28.

sin autem......et] 'but if it be true that'......'then I say that both'...... Halm compares § 20 *tamen testata sunt omnia* = *dico testata esse.*

proavus, avus] are not known except from this notice of Cicero.

fuit] for the singular, compare Madvig § 213 a, obs.

honestissime] Zumpt remarks that he is sparing in his praise; for Murena had not had very good success.

ex praetura] the rule was, that only consuls, proconsuls, praetors, and pro-praetors had any claim to the honour of a Triumph. Cn Pompeius was the first in whose favour an exception was made.

16 cendi reliquit, quod is iam patri debitus a filio petebatur. tua vero nobilitas, Servi Sulpici, tametsi summa est, tamen hominibus litteratis et historicis est notior, populo vero et suffragatoribus obscurior; pater enim fuit equestri loco, avus nulla inlustri laude celebratus. itaque non ex sermone hominum recenti, sed ex annalium vetustate eruenda memoria est nobilitatis tuae. quare ego te semper in nostrum numerum adgregare soleo, quod virtute industriaque perfecisti, ut cum equitis Romani esses filius, summa tamen amplitudine dignus putarere. nec mihi umquam minus in Q Pompeio, novo homine et fortissimo viro, virtutis esse visum est quam in homine nobilissimo M Aemilio. etenim eiusdem animi atque ingenii est posteris suis, quod Pompeius fecit, amplitudinem nominis, quam non acceperit, tradere, et, ut Scaurus, memoriam prope intermortuam generis sui virtute renovare. VIII.

16 *tametsi......tamen*] so de orat II § 120, pro Rosc Amer §§ 55, 56, 73, 117, etc. Matthiae.

summa] the *gens Sulpicia* was one of the oldest patrician *gentes*. compare Brutus § 62, Tac Ann III 48, Hist I 15, Liv II 19.

litteratis] the word bears a good sense (γραμματικός). The opposite is *litterator* (γραμματιστής). Compare Catull XIV 9, Suetonius de Grammaticis 4 *sunt qui litteratum a litteratore distinguant, ut Graeci grammaticum a grammatista, et illum quidem absolute hunc mediocriter doctum existiment: quorum opinionem Orbilius etiam exemplis confirmat.* Gellius II 10 § 1.

historicis] 'antiquarians,' Halm; rightly, I think. So Pliny called his great work of research *Naturalis Historia*.

suffragatoribus] 'canvassers.' So § 44. See note on § 71.

equestri loco] i e he had filled no office, and so had not attained to a seat in the Senate.

nulla.....celebratus] probably he was a senator, but had not won curule honours.

ex annalium vetustate] 'from the musty tomes of our records.' Halm well compares § 10 *pro amici periculo*, 'for a friend in danger.' Add § 30 *simulatio prudentiae.*

nostrum] i e of *novi homines.* Halm.

summa] i e the consulship, which he was thought to deserve, though he failed to get it.

Q Pompeius Rufus] consul 141 B C, censor 131 B C, first brought the consulship into the *gens Pompeia*. See II in Verr V § 181, Brutus § 96, Liv Epit 59, Velleius II 21 4.

M Aemilius Scaurus] consul 115 B C, censor 109 B C, and chosen *princeps senatus* 115 B C. Asconius tells us that for three generations preceding him the family had been under a cloud, so that he was no better off than a *novus homo.* Compare pro Scauro 4 a.

quam non acceperit] the subject to be supplied is 'he' or 'one,' as in de fin III § 70 *detrahere quid de aliquo quod sibi assumat.* Tischer.

quamquam ego iam putabam, iudices, multis viris fortibus ne **17** ignobilitas generis obiceretur, meo labore esse perfectum, qui non modo Curiis, Catonibus, Pompeiis, antiquis illis fortissimis viris, sed his recentibus, Mariis et Didiis et Caeliis, commemorandis iacebant. cum vero ego tanto intervallo claustra ista nobilitatis refregissem, ut aditus ad consulatum posthac, sicut apud maiores nostros fuit, non magis nobilitati quam virtuti pateret, non arbitrabar, cum ex familia vetere et inlustri consul designatus ab equitis Romani filio consule defenderetur, de generis novitate accusatores esse dicturos. etenim mihi ipsi accidit, ut cum duobus patriciis, altero improbissimo atque audacissimo, altero modestissimo atque optimo viro, peterem; superavi tamen dignitate Catilinam, gratia Galbam. quodsi id crimen homini novo esse deberet, profecto mihi

viii 17. *Curiis*] M' Curius Dentatus, conqueror of the Samnites and of Pyrrhus, was consul B C 290, 275, 274.

Catonibus] not *Porciis*, as it was the Cato family that had founded the *nobilitas* of the *gens Porcia*. M Porcius Cato, afterwards called the Censor, was consul BC 195.

Pompeiis] see on § 16.

Mariis] C Marius, conqueror of the Teutones, &c, was consul BC 107, 104, 103, 102, 101, 100, 86.

Didiis] T Didius was consul B C 98.

Caeliis] C Caelius Caldus, consul BC 94.

commemorandis] ≐ *quamvis Curios* etc *commemorarent*. Compare de off I § 5 *quis est enim, qui nullis officii praeceptis tradendis philosophum se audeat dicere?* Madvig § 416, obs 1.

iacebant] were yet *ignobiles*, compare de off III § 79 *cum iam septimum annum post praeturam iaceret*. 'Men whom not even the mention of the...... could rescue from obscurity.'

tanto......refregissem] the passage generally compared with this is de leg agrar II § 3 *me perlongo intervallo prope memoriae temporumque nostrorum primum hominem novum consulem fecistis et eum locum quem nobilitas praesidiis firmatum atque omni ratione obvallatum tenebat me duce rescidistis virtutique in posterum patere voluistis.*

claustra] for metaphor compare Plin Ep II 14 § 4 *nunc refractis pudoris et reverentiae claustris omnia patent omnibus.*

apud maiores] since 366 B C, compare Liv VII 1. Tischer.

equitis Romani] compare Juv VIII 237 foll *hic novus Arpinas ignobilis et modo Romae municipalis eques.*

novitate] *generis* not *hominis* (for Murena was no *homo novus*, compare § 15). Sulpicius might speak of this in contrast to the antiquity of his own family. Halm. Zumpt prefers to read with MS Lag 9 *nobilitate.*

duobus] viz L Sergius Catilina, P Sulpicius Galba. For the latter's canvass compare ad Atticum I 1 § 1.

id] the defeat of a patrician. Tischer.

18 neque inimici neque invidi defuissent. omittamus igitur de genere dicere, cuius est magna in utroque dignitas: videamus cetera.

'quaesturam una petiit et sum ego factus prior.' non est respondendum ad omnia. neque enim vestrum quemquam fugit, cum multi pares dignitate fiant, unus autem primum *locum* solus possit obtinere, non eundem esse ordinem dignitatis et renuntiationis, propterea quod renuntiatio gradus habet, dignitas autem est persaepe eadem omnium. sed quaestura utriusque propemodum pari momento sortis fuit. habuit hic lege Titia provinciam tacitam et quietam, tu illam, cui, cum

18. *cetera*] these are, (1) quaestorship, § 18; (2) presence and absence, peace and war, §§ 19—34; (3) praetorship, §§ 35—42; (4) candidature for the consulship §§43—53.

factus prior] i e I got the required number of votes (18 out of 35 tribes) before Murena, and hence according to custom was returned elected before him. So *fiant*, 'are elected,' compare § 50 *factus*, § 45 *faciam*.

locum] Mommsen's conjecture, accepted by Halm, Tischer, and Sorof. Zumpt reads with the MSS *primum* only, or (see Gellius X 1 § 6) *primo*.

pari momento sortis] 'was about as lucky for one as the other.' *momentum* = what turns the scale, compare Lucan, IV 819, *momentumque fuit mutatus Curio rerum*. Zumpt gives another instance of the ablative (? locative), de invent II § 77; but the genitive *magni momenti est* is commoner. Compare on § 3.

lege Titia] is supposed to have dealt with the duties assigned to the various quaestors and the distribution of these charges (*provinciae*) among the quaestors of the year. But nothing is known concerning it.

tacitam et quietam] probably *calles*. Both Murena and Sulpicius had a *provincia Italica;* there were 4 of these, viz (1) *Ostiensis*, compare pro Sest § 39, Suet Claud 24. (2) *Gallica*, compare Plut Sertor 4, Suet Claud 24. (3) *aquaria* or *Puteolana*, see in Vatin § 12. (4) probably *callēs*, the charge of superintending the remoter parts of Italy accessible only by paths which were often mere sheep-tracks. In Tac Ann IV 27 the MSS give *Cutius Lupus quaestor cui provincia vetere ex more callēs evenerat*, and Orelli has shewn that this is better than *Cales*, which is simply a correction suggested by a note of Lipsius on a passage of Dion Cassius. For the sense of the word *calles* see pro Sest § 12, Liv XXII 14. In Suet Caes 19 we find the *calles* spoken of as a *provincia consularis* in these words; *igitur cum Bibulo consul creatur. eandem ob causam opera ab optimatibus data est ut provinciae futuris consulibus minimi negotii, id est silvae callesque, decernerentur.* As for the supposed *quaestura Calena*, its existence is affirmed by no direct testimony, and the ingenious note of Nipperdey on Tac Ann IV 27 fails to convince me that there ever was such a post.

quaestores sortiuntur, etiam adclamari solet, Ostiensem, non tam gratiosam et inlustrem quam negotiosam et molestam.
consedit utriusque nomen in quaestura; nullum enim vobis 19
sors campum dedit, in quo excurrere virtus cognoscique posset.

IX. reliqui temporis spatium in contentionem vocatur, ab utroque dissimillima ratione tractatum. Servius hic nobiscum hanc urbanam militiam respondendi, scribendi, cavendi, plenam sollicitudinis ac stomachi, secutus est: ius civile didicit; multum vigilavit laboravit, praesto multis fuit, multorum stultitiam perpessus est, arrogantiam pertulit, difficultatem exsorbuit: vixit ad aliorum arbitrium, non ad suum. magna laus

adclamari] seems to be always used in unfavourable sense by Cicero.

negotiosam] the charge of the public corn-supply.

consedit] opposed to *excurrere*. Compare orator § 96 *in ea mediocritate consedit*. 'Passed out of the public view in the routine duties of the office.'

campum] compare ad Att V 15 § 1 *non habet satis magnum campum ille tibi non ignotus cursus animi*.

ix 19 *reliqui temporis*] this is treated in §§ 19—53. See on § 18.

tractatum] 'employed,' 'applied.' See Nägelsb stil § 110 p 303. Halm compares auct ad Herenn IV § 33 *vitam honeste tractatam*. Zumpt thinks that there is a metaphor from the stage, comparing pro Rosc com § 20 *personam tractare*. Though I think this forced, I agree with him in leaving out (with MS Lag 9) the *est* after *tractatum*, which seems to me to spoil the run of the sentence.

urbanam militiam] a playful hit at the sedentary life of Sulpicius, as compared with the campaigns of Murena. Compare § 38.

respondendi] giving legal opinions, as in § 9.

scribendi] drawing up legal instruments (such as wills, contracts, pleadings), compare § 28, de orat II 24.

cavendi] taking care that a client is not led unwarily into a ruinous contract, or an informal mode of pleading, compare § 22.

didicit] i e he devoted himself now wholly to jurisprudence and gave up oratory. Zumpt. See on § 23.

vigilavit laboravit] for the asyndeton compare div in Caecil § 11 *adsunt queruntur Siculi universi*.

praesto fuit] 'served many clients.'

difficultatem] 'wilful obstinacy,' 'wrongheadedness,' or better 'cantankerousness.' Compare Cat maior § 7 *moderati enim et nec difficiles nec inhumani senes tolerabilem senectutem agunt*. The substantive seems to be used in this sense here only.

exsorbuit] 'swallowed,' i e put up with. So *sorbere*, ad Q fratrem III 9 § 5, and often *devorare*.

arbitrium] compare Propert V 1 143 *illius arbitrio noctem lucemque videbis*.

laus] 'merit.' So Virg Aen I 461 *sunt hic etiam sua praemia laudi*, V 355 *primam merui qui laude coronam*.

et grata omnibus, unum hominem elaborare in ea scientia,
20 quae sit multis profutura. quid Murena interea? fortissimo et
sapientissimo viro, summo imperatori, legatus L Lucullo fuit;
qua in legatione duxit exercitum, signa contulit, manum con-
seruit, magnas copias hostium fudit, urbes partim vi partim
obsidione cepit, Asiam istam refertam et eandem delicatam
sic obiit, ut in ea neque avaritiae neque luxuriae vestigium
reliquerit; maximo in bello sic est versatus, ut hic multas res
et magnas sine imperatore gesserit, nullam sine hoc imperator.
atque haec quamquam praesente L Lucullo loquar, tamen, ne
ab ipso propter periculum nostrum concessam videamur habere
licentiam fingendi, publicis litteris testata sunt omnia, quibus
L Lucullus tantum laudis impertit, quantum neque ambitiosus
imperator neque invidus tribuere alteri in communicanda glo-
21 ria debuit. summa in utroque est honestas, summa dignitas,

unum] purely rhetorical antithesis to *multis*. Zumpt.

elaborare in] so de off I § 3, and often in Cicero.

20. *sapientissimo*] so in de imp Cn Pomp § 20. Matthiae.

refertam] 'well-stocked,' 'wealthy.' For the word used absolutely Halm compares de orat I § 161 *tamquam in aliquam locupletem ac refertam domum venerim*, de republ II § 44. Zumpt observes that this word marks the absence of greed in Murena, as *delicatam* does that of luxuriousness.

quamquam...loquar] though there is no doubt that the usage of Cicero forbids this construction, I hold that Zumpt is right in bowing to overwhelming MSS authority and refusing to read *loquor*. [See Madvig de fin III § 70, note.] He explains it by a supposed change of construction, viz, that Cicero meant to go on with *tamen litteras Luculli publicas adferendas esse putavi*, which Tischer well characterizes as an arbitrary proceeding. It seems to me that either the MSS are wrong, or that we must admit the Ciceronian use of the subjunctive with *quamquam* in the protasis of *oratio recta*. Kayser also has accepted *loquar*.

praesente] he lent his support to the defendant by appearing in court as a backer (*advocatus*), see on § 9.

tamen...testata sunt] see on § 15.

nostrum] he puts himself in his client's place. Compare *nobis* § 72.

publicis litteris] 'official despatches.'

ambitiosus...etc.] 'more praise than need have been bestowed on a subordinate by any commander that either courted glory himself or grudged it to others.' In Tac Ann I 83, II 12 we find the phrase *ambitiosum imperium* = the command of a general who tries to gain favour with the soldiers by relaxing discipline. Here of course what is meant is a general's taking all credit to himself by keeping the services of his subordinates from the knowledge of the home authorities. Compare Tac Agr 22 *nec Agricola umquam per alios gesta avidus intercepit: seu centurio seu praefectus incorruptum facti testem habebat.*

21. *honestas*] see on § 87.

quam ego, si mihi per Servium liceat, pari atque eadem in laude ponam. sed non licet: agitat rem militarem, insectatur totam hanc legationem, assiduitatis et operarum harum cotidianarum putat esse consulatum. apud exercitum mihi fueris, inquit, tot annos, forum non attigeris? afueris tam diu, ut cum longo intervallo veneris, cum his, qui in foro habitarint, de dignitate contendas? primum ista nostra assiduitas, Servi, nescis quantum interdum adferat hominibus fastidii, quantum satietatis. mihi quidem vehementer expedit positam in oculis esse gratiam, sed tamen ego mei satietatem magno meo labore superavi, et tu idem fortasse: verum tamen utrique nostrum desiderium nihil obfuisset. sed ut, hoc omisso, ad studiorum 22
atque artium contentionem revertamur, qui potes dubitare

eadem in laude] One of the better MSS places the preposition thus, and I have therefore transferred it. It is usually placed before *eadem*. Halm keeps it there, and accepts Bake's conjecture *parem* for *pari*.

agitat] 'makes it his quarry,' compare de leg I § 40 *ut eos agitent insectenturque furiae*.

operarum] 'jobs,' perhaps with a touch of the sense 'day-labourers,' as Zumpt thinks. The plural is certainly contemptuous; in § 36 the singular is used.

harum = *forensium*.

apud...contendas?] loosely quoted by Quintil V 13 § 27. Here I have taken the MS reading, but the punctuation is my own. Compare Madvig § 438, and for *fueris* subj § 353, pro Sulla § 44.

mihi] dat ethicus, compare § 13.

tot annos] goes with *fueris* etc. preceding, but has its effect also on the following coordinate interrogation. 'Am I,' says he, 'to have you spending all those years in the field, while you neglect the forum? being all that time out of Rome, just to return ever so long after and put your claims in competition with those of men who have made the forum their house and home?'

ut] as though Murena had stayed away on purpose, and put forward his absence as a claim to office. The use is closely akin to that commented on in § 11. Most editors read *et* in defiance of the unanimous voice of the MSS, a change which I cannot accept.

habitarint] Halm compares Brutus § 305 *et hi quidem habitabant in Rostris*, de orat I § 264 *is qui habitaret in subselliis*.

primum] 'to begin with.' So in § 25.

expedit] so MSS, and it is far better than Lambinus' *expediit*.

idem] i e *fecisti*, as often. Here also I prefer to keep the MSS reading.

verum tamen] catches up *sed tamen* above, and gives the same idea a different turn, 'but as I say,'... compare ad Attic I 10 § 1, II in Verr III § 4.

desiderium] Halm compares ad Attic II 5 § 1. 'It would not have been such a bad thing for either of us, had we been missed awhile from our haunts.'

quin ad consulatum adipiscendum multo plus adferat dignitatis rei militaris [quam iuris civilis] gloria? vigilas tu de nocte, ut tuis consultoribus respondeas, ille, ut eo, quo intendit, mature cum exercitu perveniat: te gallorum, illum bucinarum cantus exsuscitat: tu actionem instituis, ille aciem instruit: tu caves ne tui consultores, ille ne urbes aut castra capiantur: ille tenet et scit ut hostium copiae, tu, ut aquae pluviae arceantur: ille exercitatus est in propagandis finibus, tu in regendis. ac nimirum—dicendum est enim quod sentio—rei militaris virtus praestat ceteris omnibus. X. haec nomen populo Romano, haec huic urbi aeternam gloriam peperit, haec orbem terrarum parere huic imperio coegit: omnes urbanae res, omnia haec nostra praeclara studia et haec forensis laus et industria latent in tutela ac praesidio bellicae virtutis.

22. *quam iuris civilis*] if these words are genuine, *gloria* is ironically referred to them. But MS Lag 9 omits them, and so Zumpt plausibly.

vigilas &c.] quoted by Quint IX 2 § 100, 3 § 32, with slight variations.

de nocte] 'before break of day,' compare § 69.

consultoribus] for the pressure of these on a *iuris consultus* compare de orat I §§ 199, 200, Phil VIII § 31.

gallorum] Matthiae well compares Hor Sat I 1 9 *agricolam laudat iuris legumque peritus, sub galli cantum consultor ubi ostia pulsat.*

instituis...instruit] notice the play on the words: 'while you are setting on foot a pleading, he is setting in array an army.' Compare Phil IX § 11 (also of Sulpicius), *neque instituere litium actiones malebat quam controversias tollere.* For the technical *actiones* (verbal processes) see on § 29.

capiantur] 'be taken unawares,' a neutral word, applying to the court and the field alike. Compare Acad II § 66 *cavere ne capiatur*, and see note on *cavendi* § 19.

tenet] i e *mente*, compare § 26 *tenebant*, and de fin III § 44 *quod idem Peripatetici non tenent.*

aquae pluviae] i e you know how to set on foot in right form an *actio aquae pluviae arcendae.* No proprietor had a right to build a house so that the rain-water from the roof fell on another man's ground, unless he had the benefit of an easement or a servitude, called *stillicidii servitus*, or *ius stillicidii*, compare Top § 43, de orat I § 173, Lord Mackenzie, Roman Law, pt II c 5. From a quotation in the Digest, it has been inferred that Sulpicius had written some treatise on this point of law.

propagandis finibus] i e of the empire, 'frontiers.'

regendis] of estates, 'in settling questions of boundary-lines.' Sorof well remarks that the word contains the notion of 'limiting' and is thus a fit antithesis to *propagandis*. Compare Ulpian XIX 16.

X. *latent*] compare Liv XXXIV 9 *sub umbra Romanae amicitiae latebant.* 'lie safe and sound.'

simul atque increpuit suspitio tumultus, artes ilico nostrae conticescunt.

23 et quoniam mihi videris istam scientiam iuris tamquam filiolam osculari tuam, non patiar te diutius in tanto errore versari, ut istud nescio quid, quod tanto opere didicisti, praeclarum aliquid esse arbitrere. aliis ego te virtutibus, continentiae, gravitatis, iustitiae, fidei, ceteris omnibus, consulatu et omni honore semper dignissimum iudicavi: quod quidem ius civile didicisti, non dicam, operam perdidisti, sed illud dicam, nullam esse in ista disciplina munitam ad consulatum viam. omnes enim artes, quae nobis populi Romani studia conciliant et admirabilem dignitatem et pergratam utilitatem debent habere. XI. summa dignitas est in his, qui militari laude ante- 24
cellunt: omnia enim, quae sunt in imperio et in statu civitatis,

in tutela] like wards (*pupilli*) in charge of a guardian (*tutor*).

increpuit] at the faintest alarm of war. compare in Catil I § 18 *me totam esse in metu propter unum te, quidquid increpuerit Catilinam timeri*, in Pison § 99.

tumultus] 'a war in Italy,' as usually. Halm well refers to Phil V § 31 *tumultum decerni, iustitium edici, saga sumi dico oportere*. The word is fully discussed in Phil VIII §§ 2—4.

23 *osculari*] 'to hug,' 'fondle.' Zumpt compares ad Fam I 9 § 10 *inimicum meum sic me praesente osculabantur*.

didicisti] so MSS. 'that you have at your fingers' ends by this time.' better than the conjecture *dilexisti*. See on § 19.

virtutibus] ablative of course, compare de orat III § 199 *quadam mediocritate laudatur*. It is here strangely used close to the ablative *consulatu* &c, depending on *dignissimum*.

continentiae, gravitatis, &c] genitives of more specific definition, compare Madvig § 286 obs 2: they are used instead of an apposition, and should be so rendered in English; so with *nomen* §§ 13, 67, and § 77 *fructus ludorum*, &c.

quidem] introduces the opposition, as in § 12 *maledicto quidem*, &c.

ista] the MSS have *illa*, which Zumpt defends. But on comparing §§ 23, 24, 25, 28, 29 I prefer accepting Halm's correction. To suppose, as Zumpt does, that Cicero here turns to the jury is a very gratuitous assumption.

artes] 'pursuits,' 'professions', as in § 22. See on § 9 *studio*.

conciliant] I am now certain that this, which is the MSS reading, should be kept. So also Sorof, who renders 'all pursuits that win us the support of the Roman people must, in order to have this power, possess'......

xi 24 *his*] has better MSS authority than *iis*; 'our friends who'... speaking to Sulpicius and indicating Murena. See on § 3.

statu civitatis] = *quae ad salutem civitatis pertinent*, Matthiae. 'All that concerns the assured permanence of the State,' Halm, who compares pro Sestio § 1. 'The position

ab his defendi et firmari putantur; summa etiam utilitas, si quidem eorum consilio et periculo cum re publica, tum etiam nostris rebus perfrui possumus. gravis etiam illa est et plena dignitatis dicendi facultas, quae saepe valuit in consule deligendo, posse consilio atque oratione et senatus et populi et eorum, qui res iudicant, mentes permovere. quaeritur consul, qui dicendo nonnumquam comprimat tribunicios furores, qui concitatum populum flectat, qui largitioni resistat. non mirum, si ob hanc facultatem homines saepe etiam non nobiles consulatum consecuti sunt, praesertim cum haec eadem res plurimas gratias, firmissimas amicitias, maxima studia pariat:
25 quorum in isto vestro artificio, Sulpici, nihil est. primum dignitas in tam tenui scientia non potest esse: res enim sunt parvae, prope in singulis litteris atque interpunctionibus ver-

of our State in the world,' in relation to others, Zumpt and Tischer, who compare de republ II § 2 *praestare nostrae civitatis statum ceteris civitatibus*, pro Flacco § 3 *totum statum civitatis*. But in de republ II § 2 it clearly = 'our constitution,' and I believe the same to be the meaning in pro Sestio § 1 and pro Flacco § 3. Is it not also here? One consul was at this very time away, putting down the Catilinarian insurrection. 'For all things within the sphere of our rule abroad or our constitution at home are felt to get their protection and maintenance from these.'

consilio] so § 33. '*vis consili expers*' comes to a bad end, Hor Carm III 4 65; 'strategy.'

posse] the subject of *valuit*, in apposition to *facultas*. Zumpt. For the sentiment Halm compares de orat I § 30.

valuit] 'has turned the day.'

consilio, &c] 'by tact and power of speaking.'

furores...largitioni] 'able to put down hot-headed tribunes to..... to stand out against a proposed bounty.' *largitio*, here the distribution of lands or corn to the people by a *lex agraria* or *frumentaria*. He is thinking of his own speeches *de lege agraria contra Rullum*, delivered early in this very year. Compare § 80.

non nobiles] such as Cicero himself.

gratias] 'obligations,' under which the eloquent counsel lays many clients and their friends. For plural compare § 42.

artificio] 'technical dexterity,' 'knack.' compare ad fam IX 16 § 2 *non iam satis est consilio pugnare, artificium quoddam excogitandum est.*

25 *dignitas*, etc] Cicero speaks more highly of jurisprudence in de orat I §§ 234—236, more highly still in the speech pro Caecina.

tenui] 'paltry,' perhaps with a notion of 'hair-splitting.' Hor A P 46 *in verbis etiam tenuis cautusque serendis*.

res] 'the matter,' *occupatae in* 'taken up with.'

litteris] questions of spelling, compare *auceps syllabarum*, de orat I § 236.

interpunctionibus verborum] such

borum occupatae. deinde, etiamsi quid apud maiores nostros fuit in isto studio admirationis, id enuntiatis vestris mysteriis totum est contemptum et abiectum. posset agi lege necne, pauci quondam sciebant; fastos enim vulgo non habebant; erant in magna potentia qui consulebantur, a quibus etiam dies tamquam a Chaldaeis petebatur. inventus est scriba quidam Cn Flavius, qui cornicum oculos confixerit et singulis diebus ediscendis fastos populo proposuerit et ab ipsis causis iure consultorum sapientiam compilarit. Itaque irati illi, quod sunt veriti, ne dierum ratione pervulgata et cognita sine sua opera lege agi posset, verba quaedam composuerunt, ut omnibus in rebus ipsi interessent.

XII. cum hoc fieri bellissime posset: 'fundus Sabinus 26

as the questions whether a man was to be buried *in culto loco* or *inculto loco*, and whether a man had left his whole property to Λέων or his property to Παντaλέων (πάντα Λέοντι or Παντaλέοντι), given by Quintil VII 9 §§ 5, 6; many such ambiguities, observes Zumpt, are found in laws.

agi lege] 'whether actions at law could be brought or no,' compare div in Caecil § 19, i e whether a certain day belonged to the *dies fasti* or *nefasti*, compare Ovid fasti I 45 foll.

fastos] 'calendar,' with the days marked F or N.

qui consulebantur] the *pontifices*, in whose hands the regulation of the calendar lay, and who were the jurisconsults until 304 BC.

a Chaldaeis] as an astrologer is entreated to point out a 'lucky' day.

Cn Flavius] compare de orat I § 186, ad Att VI 1 § 8, Plin H N XXXIII 17.

qui confixerit] compare Plautus capt 568 *tu enim repertu's Philocratem qui superes veriverbio.*

cornicum oculos] i e took in knowing men; a proverb, compare pro Flacco § 46 and Propert V 5 16, where it refers to a charm for blinding even the watchful. The crow was thought to be especially fond of pecking out the eyes of other animals.

ediscendis] by learning the days one by one, i e whether they were *fasti* or *nefasti*. So Pliny, *Appi Caeci hortatu exceperat eos dies consultando adsidue sagaci ingenio.* Halm has *discendis*, dative, 'for learning.'

ab ipsis causis] i e *consultando adsidue*, as Pliny says; 'from the individual cases in court.' Sorof also keeps this reading. He seems to have noted not merely the day on which the case was tried, but also the form of pleading [*actiones*, Cic ll cc above].

compilarit] 'pilfered,' got together by hook or by crook.'

verba] they made the forms of pleading more and more intricate.

xii 26 Cicero gives an instance of legal formalities, a *lis vindiciarum* or *actio rei vindicandae.* It was one of those conducted with a legal wager or stake (*actio sacra-*

meus est': 'immo meus,' deinde iudicium: noluerunt. fundus, inquit, qui est in agro, qui Sabinus vocatur. satis verbose: cedo, quid postea? eum ego ex iure Quiritium meum esse aio. quid tum? inde ibi ego te ex iure manum consertum voco. quid huic tam loquaciter litigioso responderet ille, unde petebatur, non habebat. transit idem iure consultus, tibicinis Latini modo: unde tu me.

menti). The defendant staked a sum of money on the justice of his refusal to give up the property (*sponsio*), the plaintiff accepting the wager to prove the justice of his claim (*restipulatio*). Either party gave security to the praetor for the money, and the loser forfeited the fixed sum to the State. Gaius IV 13. These *actiones* were intended to supplement the defective old law.

bellissime] conversational, like our 'nicely.' 'Though it might have been done very nicely thus, "the Sabine estate belongs to me." "No, to me," and then the trial and decision; they would not have it so,' i e the *iuris consulti*.

inquit] 'says the jurist.'

ex iure Quiritium] so Gaius IV 16. 'in accordance with the legal rights of a Roman citizen.' Opposed to *in bonis esse*. Compare Gaius II 40, 41, ...*ut alius possit esse ex iure Quiritium dominus, alius in bonis habere. nam si tibi rem mancipi neque mancipavero neque in iure cessero, sed tantum tradidero, in bonis quidem tuis ea res efficitur, ex iure Quiritium vero mea permanebit, donec tu eam possidendo usucapias.*

inde] 'for that reason I call you from the praetor's tribunal to join hands with me on the said estate.' *inde.* i e *quia meum esse aio*. Compare *unde...inde* below.

ex iure] We learn from Gellius XX 10 §§ 6—10 that the solemn joining of hands and claiming of a disputed property was of old performed on the property in the presence of the praetor; for the XII tables said *si qui in iure manum conserunt*. As the empire of Rome grew in Italy and the praetors were more and more busied with their juridical functions, they found it too much of a burden to go far and near, settling questions of property on the spot; hence by tacit consent the custom was changed; the parties, instead of joining hands *in iure* (i e before the praetor), went on challenge to the property in question *ex iure* (i e from the presence of the praetor), joined hands there, and brought back some piece or other into court, e.g. a clod to which they laid claim as representing the property. See Appendix E.

loquaciter] with adjective. Compare de off III § 112 *acerbe severus*. Tusc disp V § 6 *impie ingratus*. Sorof.

unde] i e *a quo fundus petebatur*. 'the defendant knew not how to answer such a chattering pettifogger,' the bombastic forms are too much for him. For *unde* compare Cat maior § 12 *quasi iam divinarem illo exstincto fore unde discerem neminem*.

transit] changes sides and prompts the defendant, as a flute-player accompanies first one singer, then another. Quint VII 1 § 51 has adopted this simile.

Latini] The story in Liv IX 30 shews that they were not Roman citizens. Thus the *haruspices* were Etruscans. Ernesti.

inquit, ex iure manum consertum vocasti, inde ibi ego te revoco. praetor interea ne pulchrum se ac beatum putaret atque aliquid ipse sua sponte loqueretur, ei quoque carmen compositum est, cum ceteris rebus absurdum, tum vero in illo: suis utrisque superstitibus praesentibus istam viam dico; ite viam. praesto aderat sapiens ille, qui inire viam doceret. redite viam; eodem duce redibant. haec iam tum apud illos barbatos ridicula, credo, videbantur, homines, cum recte atque in loco constitissent, iuberi abire, ut, unde abissent, eodem statim redirent. isdem ineptiis fucata sunt illa omnia: quando te in iure conspicio, et haec: anne tu dicas, qua ex causa vindicaveris? quae dum

unde......inde] compare on *inde* above.

revoco] 'I call in turn.' The word is similarly used of invitations in pro Rosc Amer § 52 *domum suam istum non fere quisquam vocabat. nec mirum, qui neque in urbe viveret neque revocaturus esset.* Here it is 'I return your challenge.'

pulchrum] Zumpt compares de nat deor I § 114 *deum nihil aliud in omni aeternitate nisi 'mihi pulchre est' et 'ego beatus sum' cogitantem.* 'For fear that, while all this was going on, the praetor might fancy himself a fine lucky fellow, and bring out some remark on his own account, a set form of words was made up for him also.'

superstitibus] = *testibus praesentibus.* Compare Festus p 305. Hence perhaps, as Halm remarks, *praesentibus* here is a gloss. If not, it must, as Zumpt says, be used of time and *superstitibus* of place. 'Either party having their witnesses here now present.' *utrisque* is the dative.

istam] to the property. They did not really go, but moved off a few steps. For the construction compare Virg Aen VI 122 *itque reditque viam totiens.*

barbatos] compare pro Sestio § 19 *unum aliquem ex barbatis illis, exemplum imperii veteris, imaginem antiquitatis.* The custom of shaving was introduced into Italy B C 300. See Prof Mayor's note on Juven XVI 31 *dignum barba dignumque capillis maiorum.*

in loco] so Tac Ann II 4. *loco* is also used thus.

quando te in iure conspicio] It went on *postulo anne fuas auctor.* 'As I see you here in court, I want to know whether you are responsible for the title.' This seems to be some part of the formal procedure in a suit concerning a disputed title, and is quoted again in pro Caecina § 54 *actio est in auctorem praesentem his verbis; quandoque te in iure conspicio.* For *auctor* see on § 3.

anne tu dicas] Gaius IV 16 has *postulo, anne......*, but the text there is corrupt, and Zumpt, with great plausibility, maintains that the MSS *postul* has been wrongly completed. *anne dicas* he makes = *numquid aliud an dicturus es*; but I am not sure that I understand this. It is a part of the proceeding in a case of *vindicatio*, as above. The clod was brought into court, and was claimed by either party in turn, as above,

erant occulta, necessario ab eis, qui ea tenebant, petebantur; postea vero pervulgata atque in manibus iactata et excussa inanissima prudentiae reperta sunt, fraudis autem et stultitiae
27 plenissima. nam cum permulta praeclare legibus essent constituta, ea iure consultorum ingeniis pleraque corrupta et depravata sunt. mulieres omnes propter infirmitatem consilii maiores in tutorum potestate esse voluerunt: hi invenerunt genera tutorum, quae potestate mulierum continerentur. sacra

adding *sicut dixi, ecce tibi, vindictam imposui.* This was a *festuca* or wand, symbolizing the *hasta* or spear, the Roman sign of ownership. Then the praetor told both to let the thing go (*mittite ambo*). The first claimant then asked the defendant (as here), why he had laid claim to the thing; the latter answered *ius peregi, sicut vindictam imposui.* A went on *quando tu iniuria vindicavisti* (since your claim is a wrongful one), *D aeris sacramento te provoco* [or *L aeris* etc], and B rejoined *similiter ego te.* The proceedings then took the form of a personal action, founded on the alleged neglect of an obligation, and it was regularly tried by a *iudex* or *arbiter.* This was *in iudicio*, as opposed to *in iure*, before the magistrate. See Lord Mackenzie, Roman Law, part V cc 2, 3; Gaius IV 5; and for distinction between civil and criminal causes, Mommsen book IV c 10.

tenebant] 'knew,' 'were skilled in them.' compare *tenet* § 22. Or perhaps 'were exclusively in possession of them.' Compare § 25.

excussa] 'shaken out,' 'examined.' Compare de off III § 81; Tusc disp I § 88.

fraudis] 'chicanery' or 'pitfalls,' as one who pleaded informally *causa cadebat.* Compare on § 9.

27 *iure consultorum*] This rare form is certainly found here.

infirmitatem consilii] so Gaius I 144 *propter animi levitatem.* Ulpian XI 1 *propter sexus infirmitatem et propter forensium rerum ignorantiam.* But Gaius I 190 ridicules this latter theory, which however was not uncommon.

genera tutorum] Sometimes a man, instead of appointing by will a guardian for his wife in event of his own decease, gave her in that case the right to choose for herself. Such a guardian was called *tutor optivus*, and would no doubt be chosen as one whom the woman could manage to lead. But the most common way of shaking off a disagreeable tutor was this: the woman got her tutor's consent to her making a *coemptio fiduciae causa;* then the *coemptionator* made her over again to some person of her own choice. This latter emancipated her, and then she was only the ward of the man who had emancipated her, her *tutor fiduciarius.* Gaius I 114, 115, 166, 195.

sacra] i e *privata*, often great burdens on property at Rome, in honour of the tutelary god of a family or *gens.* In order to ensure their maintenance (*perpetua*), they went with the property. compare de legib II § 47 foll, orator § 144. Plaut capt 775 *sine sacris hereditatem* = an unencumbered property. From Paulus diac p 77 we learn that the proper title of an heir to property burdened with *sacra* was *everriator.*

interire illi noluerunt: horum ingenio senes ad coemptiones faciendas interimendorum sacrorum causa reperti sunt. in omni denique iure civili aequitatem reliquerunt, verba ipsa tenuerunt, ut, quia in alicuius libris exempli causa id nomen invenerant, putarent, omnes mulieres, quae coemptionem facerent, Gaias vocari. iam illud mihi quidem mirum videri solet, tot homines tam ingeniosos post tot annos etiam nunc statuere non potuisse, utrum diem tertium an perendinum, iudicem an arbitrum, rem an litem dici oporteret. XIII. ita- 28
que, ut dixi, dignitas in ista scientia [consularis] numquam fuit, quae tota ex rebus fictis commenticiisque constaret, gratia vero multo etiam minus. quod enim omnibus patet et aeque promptum est mihi et adversario meo, id esse gratum nullo pacto potest. itaque non modo beneficii collocandi spem,

coemptiones] The *coemptio* was a symbolic sham-sale, by which a woman passed into the power of some man either *matrimonii causa*, i e *in manum mariti sui*, or *fiduciae causa* (transacted either with her husband or some stranger); for instance, if a woman inherited an estate burdened with *sacra*, she *cum sene coemptionem fecit*. He then came into her property, *sacra* included. Then he at once manumitted her, and gave back the property in parcels as *dona*. The old man being poor (in fact chosen as such), when he died, had no property to leave, and the *sacra* fell through for want of heirs. See Gaius, I 113, 114.

aequitatem.......tenuerunt] 'They have dropped the spirit and held fast to the mere letter.'

in alicuius libris] In some treatise on the forms of *coemptio*.

ut putarent] I prefer this with Zumpt and the MSS. 'so as actually to fancy that'......For *ut* see on § 11. This is of course mere banter on Cicero's part, as Gaius, Gaia, Titius, Titia, Seius, Seia etc are legal *personae ficticiae*. Gaia seems to have been generally employed in forms of *coemptio*. Compare 'John Doe' and 'Richard Roe.' See Quint I 7 § 28.

iam] 'now really,' 'upon my word.' Compare Phil II § 8 *iam invideo magistro tuo*, ib § 19.

non potuisse] Of course these are merely the usual redundancies of legal caution. *tertium* according to Roman circulation would be=*perendinum*. *arbitrum*, either appointed by the parties, without interference of a magistrate, or by the magistrate after the preliminary hearing *in iure*. Compare on § 26. In this latter sense he was properly called *iudex*. In the XII Tables was '*iudici arbitrove*.'

xiii 28 [*consularis*] Halm plausibly urges that this is most likely a gloss, as *gratia* is directly opposed to *dignitas*, and in § 25 Cicero says *primum dignitas in tam tenui scientia non potest esse*. But I am not clear that his reasons are conclusive.

promptum] 'ready to hand.' Compare de orat I § 237 *prompta defensio*, II in Verr IV § 42. Sorof.

sed etiam illud, quod aliquando fuit, 'licet consulere?' iam perdidistis. sapiens existimari nemo potest in ea prudentia, quae neque extra Romam usquam neque Romae rebus prolatis quidquam valet; peritus ideo nemo haberi potest, quod in eo, quod sciunt omnes, nullo modo possunt inter se discrepare; difficilis autem res ideo non putatur, quod et perpaucis et minime obscuris litteris continetur. itaque, si mihi homini vehementer occupato stomachum moveritis, triduo me iure consultum esse profitebor. etenim quae de scripto aguntur, scripta sunt omnia, neque tamen quidquam tam anguste scriptum est, quo ego non possim 'qua de re agitur' addere: quae consuluntur autem, minimo periculo respondentur. si id quod oportet, responderis, idem videare respondisse, quod

aliquando] 'formerly,' i e before the days of Flavius.

licet consulere?] 'is it allowed to take your opinion?' a formal address to a jurist in the good old days of their power. So in jest Hor Sat II 3 192 *ergo consulere et mox respondere licebit; consule.*

prudentia] Halm compares Corn Nep Cimon 2 § 1 *magnam prudentiam quum iuris civilis tum rei militaris.*

rebus prolatis] In times of vacation, either (*a*) the regular *iustitium edictum*, or (*b*) caused by tumult and insurrection, or (*c*) generally. on either account. Compare Plaut capt 78, 79 *ubi res prolatae sunt, quom rus homines eunt, semul. prolatae res sunt nostris dentibus.*

difficilis.......continetur] Matthiae well compares de orat I § 192 *omnia sunt enim posita ante oculos, collocata in usu cotidiano, in congressione hominum atque in foro; neque ita multis litteris aut voluminibus magnis continentur.*

perpaucis litteris] i e *libris.* He is here speaking of the *ius privatum*, which at this time consisted only of (*a*) the XII Tables, (*b*) a few laws, (*c*) the *edicta praetorum*, (*d*) the verbal forms of procedure, such as those noticed above. Zumpt and Halm.

me] he had studied under the great jurist Q Mucius Scaevola in his youth, compare Brutus § 306, and is said to have written a treatise *de iure civili in artem redigendo*, Gellius I 22 § 7.

de scripto] i e the *concepta verba* or *formulae*, Gaius IV 30.

scripta sunt] 'are to be found in the books,' manuals of *formulae.*

anguste] 'so closely worded.'

qua de re agitur] a regular phrase used in legal forms. Compare Brutus § 275, Topica § 95, Gaius IV 47.

respondentur etc] 'and as for a legal opinion, you run next to no risk in giving it. Give the proper answer, and it tallies with that of my learned friend yonder (bowing to Servius); give a different one, and you have gone so far as to detect a disputed point of law and are for trying an issue on it.'

quod Servius] i e *recte.* A severe compliment.

Servius, sin aliter, etiam controversum ius nosse et tractare videare.

quapropter non solum illa gloria militaris vestris formulis **29** atque actionibus anteponenda est, verum etiam dicendi consuetudo longe et multum isti vestrae exercitationi ad honorem antecellit. itaque mihi videntur plerique initio multo hoc maluisse, post, cum id adsequi non potuissent, istuc potissimum sunt delapsi. ut aiunt in Graecis artificibus eos auloedos esse, qui citharoedi fieri non potuerint, sic nonnullos videmus, qui oratores evadere non potuerint, eos ad iuris studium devenire. magnus dicendi labor, magna res, magna dignitas, summa autem gratia: etenim a vobis salubritas quaedam, ab iis, qui dicunt, salus ipsa petitur. deinde vestra responsa atque decreta et evertuntur saepe dicendo et sine defensione oratoris firma esse non possunt. in qua si satis profecissem, parcius de eius laude dicerem: nunc nihil de me dico, sed de iis, qui in dicendo magni sunt aut fuerunt.

controversum ius] compare de orat I § 242 *ius quod ambigitur inter peritissimos*, pro Caec § 69 *ius varium*, Quint XII 3 § 8. Add de off III § 91.

tractare] to handle, examine.

29 *formulis*] written forms for judicial proceedings, beside which in Cicero's time still existed the old *actiones* (or *legis actiones*), verbal processes according to law. The latter had been productive of great hardship and injustice, and were eventually given up, Gaius IV 11, 30. For the *formulae* compare pro Rosc com §§ 24, 25. For the *actiones* pro Caec § 8.

ad honorem] 'in relation to office,' 'for attaining.' So § 38 *ad famam*.

plerique] a hit at Sulpicius' early devotion to oratory, and his later abandonment of it. Cicero says of him, Brutus § 151, that after his return from Rhodes *videtur mihi in secunda arte* (sc *in iure civili*) *primus esse maluisse quam in prima* (sc *in eloquentia*) *secundus*. Compare Quint XII 3 § 9.

ut aiunt, etc] loosely quoted by Quint VIII 3 § 79.

artificibus] 'artists.' So Gk τεχνίτης, Ar Rhet III 2 § 10. Compare Liv V 1, VII 2, XXXIX 22. Ovid fast VI 664. So Sir T Browne tract V speaks of the 'French Artists' (meaning falconers).

citharoedi] Zumpt well compares Quint I 12 § 3.

qui......eos] so §§ 13, 61, 69, and often.

res] matter, 'task.'

autem] with the last of a string of substantives, laying stress on it.

gratia] see on § 24.

salubritas] a sort of healthy condition, opposed to *salus*.

in qua] I keep this reading, and explain with Sorof, who remarks that *defensione oratoris* is feminine, and *dicendo*=*arte dicendi*. Zumpt emends it, reading *quo*.

nunc] 'as it is I speak not of

30 XIV. duae sunt artes, quae possunt locare homines in amplissimo gradu dignitatis: una imperatoris, altera oratoris boni; ab hoc enim pacis ornamenta retinentur, ab illo belli pericula repelluntur. ceterae tamen virtutes ipsae per se multum valent, iustitia, fides, pudor, temperantia, quibus te, Servi, excellere omnes intellegunt, sed nunc de studiis ad honorem adpositis, non de insita cuiusque virtute disputo. omnia ista nobis studia de manibus excutiuntur, simul atque aliquis motu novo bellicum canere coepit. etenim, ut ait ingeniosus poëta et auctor valde bonus, proeliis promulgatis pellitur e medio non solum ista vestra verbosa simulatio prudentiae, sed etiam ipsa illa domina rerum, sapientia: vi geritur res [publica],

myself, but of the famous speakers of the present or the past.' Compare div in Caecil § 36 *nam quum omnis adrogantia odiosa est, tum illa ingenii atque eloquentiae multo molestissima.*

XIV 30 *artes*] 'branches of professional skill,' or perhaps 'merits.' Compare § 23.

tamen valent, sed] 'I am far from wishing to disparage the great worth of......, but they are not to the point just now, for'......

pudor] 'honour,' as we say. Compare § 64.

ad honorem adpositis] 'suited to the attainment of office.' Compare II in Verr I § 30 *menses ad agendum maxime appositos.* Tischer.

motu novo] 'raising a stir,' i e a revolution or invasion. So de orat II § 199 *si quis motus populi factus esset*, in Catil II 26 (*Metellus*) *omnes eius* (*Catilinae*) *motus conatusque prohibebit*, § 4 *quorum aes alienum nullum rei publicae motum adferre poterat.* Compare also Hor carm II 1 *motum ex Metello consule civicum*, Lucan VI 322 *Hesperiam potui motu surgente tenere*, Tac Agr 16 etc.

auctor] teacher, authority for a statement. Compare Tusc disp IV § 3, where Cato is *gravissimus auctor*, Hor Carm I 28 14, Juv X 30. See on § 62.

proeliis promulgatis] a phrase which sounds like a quotation from Ennius, and probably is; *promulgare legem* was to post it up 17 days at least before it was to be voted upon (*in trinum nundinum*). 'When warning of battle is given.'

simulatio prudentiae] 'your long-winded put-on learning.' The abstract for concrete, compare *annalium vetustas* § 16.

sapientia] generally explained as = eloquence, but without quotations adequate to prove the meaning. In Quintilian's prooemium § 13 I find *fueruntque haec* (moral philosophy and eloquence) *quemadmodum iuncta natura sic officio quoque copulata, ut iidem sapientes atque eloquentes haberentur.* But so far as he is alluding to words he must be thinking of the Greek σοφιστὴς and ῥητώρ, and anyone who will read §§ 9—20 will see that he is drawing an ideal character, very like Virgil's *vir pietate gravis ac meritis* who in the sedition (Aen I 148 foll) *regit dictis animos et pectora mulcet.* So Laelius was called *sapiens*, see § 66 note. I believe then that the general

spernitur orator, non solum odiosus in dicendo ac loquax, verum etiam bonus: horridus miles amatur, vestrum vero studium totum iacet. non ex iure manum consertum, sed ferro, inquit, rem repetunt. quod si ita est, cedat, opinor, Sulpici, forum castris, otium militiae, stilus gladio, umbra soli: sit denique in civitate ea prima ars, propter quam ipsa est civitas omnium princeps.

verum haec Cato nimium nos nostris verbis magna facere **31** demonstrat et oblitos esse bellum illud omne Mithridaticum cum mulierculis esse gestum. quod ego longe secus existimo, iudices, deque eo pauca disseram; neque enim causa in hoc continetur. nam si omnia bella, quae cum Graecis gessimus, contemnenda sunt, derideatur de rege Pyrrho triumphus M' Curii, de Philippo T Flaminini, de Aetolis M Fulvii, de rege Perse L Pauli, de Pseudophilippo Q Metelli, de Corinthiis L

word 'wisdom' comes nearer the true sense here. It is often used for 'philosophy.' See Tac Agr 2, 4.

res publica] the latter word is in all the MSS save one; Cicero throws it in, just as *non solum......verum etiam*, to give his own turn of meaning to the quotation.

odiosus] 'tiresome.' Compare div in Caecil § 36 *omnis adrogantia odiosa est*, Mart VIII 6 *archetypis vetuli nihil est odiosius Eucti*, Plaut mil glor 652, 742.

bonus] Cicero seems to make this mean 'good' = successful. But I fancy it was meant by Ennius as 'the honest pleader,' or, in Scotch phrase, 'the pleader, honest man,' merely a general term of approval, in opposition to *horridus*.

vero] 'as for your profession, it is utterly prostrated;' *iacet*, compare §§ 17, 45.

ex iure] see on § 26; here it is opposed to *ferro*, *manum conserere* being used in a double sense of (*a*) legal claiming of property, (*b*) fighting. *consertum*, the supine, i e *vocant* or *eunt*.

These lines from Ennius Annal VII are quoted in full by Gellius XX 10 § 4. See Appendix E.

forum castris] Not so in his poem *de suis temporibus*, fragm 1, *cedant arma togae*.

umbra soli] i e a sedentary life to an active one. In Italy to bear heat was of course the test of hardihood. See Hor carm I 8, Juv VII 105, and compare the contrast of ἀνὴρ ἡλιωμένος and ἀνὴρ ἐσκιατροφηκὼς in Plato Rep 556 d.

31 *mulierculis*] 'weak women,' opposed to *viri* in Lael § 46. Tischer.

neque enim] refers to *pauca*.

Pyrrho] battle of Beneventum B C 275 or 276, triumph in same year. Mommsen, bk II c 7.

Philippo] Kynoskephalae 197, triumph 194. Mommsen bk III c 8.

Aetolis] 189, triumph 187. Mommsen bk III c 9.

Perse] Pydna 168, triumph 167 Mommsen bk III c 10.

Pseudophilippo] 148, triumph 146. Mommsen, bk IV c 1.

Corinthiis] 146, triumph 145. Mommsen bk IV c 1.

Mummii: sin haec bella gravissima victoriaeque eorum bellorum gratissimae fuerunt, cur Asiaticae nationes atque ille a te hostis contemnitur? atqui ex veterum rerum monumentis vel maximum bellum populum Romanum cum rege Antiocho gessisse video: cuius belli victor L Scipio aequa parta cum Publio fratre gloria, quam laudem ille Africa oppressa cognomine ipso prae se ferebat, eandem hic sibi ex Asiae nomine
32 adsumpsit. quo quidem in bello virtus enituit egregia M Catonis, proavi tui; quo ille, cum esset, ut ego mihi statuam, talis, qualem te esse video, numquam cum Scipione esset profectus, si cum mulierculis bellandum arbitraretur. neque vero cum P Africano senatus egisset, ut legatus fratri proficisceretur, cum ipse paulo ante Hannibale ex Italia expulso, ex Africa eiecto, Karthagine oppressa, maximis periculis rem

gratissimae] only in one MS but *gravissimae* is clearly wrong. 'A great relief.' Even in § 40 one MS has *gravissima*.

victoriae bellorum] compare § 1 *comitiorum precatio*.

Asiaticae] Halm well remarks that this refers to what we call Asia Minor, where Greek was generally spoken; hence it agrees well with *cum Graecis* above. For *nationes* see on § 69.

contemnitur] singular as *fuit* § 15.

Antiocho] BC 192—190. Mommsen bk III c 9.

belli victor] so Stat Theb IX 624 *da visere belli victorem*.

aequa parta] of the various restorations of this passage, this of Kayser and Sorof seems to me the best. MSS mostly *si qua parta*. The statement is grossly exaggerated.

ille] because Publius was the elder and greater of the two; *hic* then answers it, otherwise it would be superfluous. Compare de legib II § 5. Zumpt.

nomine] *Asiaticus*.

32 *M Catonis*] in 191 BC at the battle of Thermopylae. Liv XXXVI 18, Plut Cato 13.

statuam] either (*a*) subjunctive 'to set him in my mind's eye,' or (*b*) future indicative 'as I shall set him..........' For the latter compare § 58 *deprecabor*, § 63 *fatebor*, where the future almost coincides in sense with a present. Halm would emend all three.

cum Scipione] these words are to be kept, as (*a*) if he went with M' Acilius Glabrio, the inaccuracy is one into which Cicero might well have fallen, and (*b*) Zumpt has shewn that he is very possibly right.

arbitraretur and below *putaretur*] for the tense compare Madvig § 347 b obs 2. 'had he thought (=been thinking) that'......

neque vero] 'nor yet again.'

egisset] for all the ingenuity of Zumpt, I still think that this statement and those in Phil XI § 17, and Liv XXXVII 1, are quite at variance. The two latter seem to be different versions, the present one an oratorical misrepresentation, of the same story.

fratri] dative after *legatus*.

publicam liberasset, nisi illud grave bellum et vehemens putaretur. XV. atqui si diligenter, quid Mithridates potuerit et quid effecerit et qui vir fuerit, consideraris, omnibus regibus, quibuscum populus Romanus bellum gessit, hunc regem nimirum antepones: quem L Sulla, maximo et fortissimo exercitu, pugnae certe non rudis imperator, ut aliud nihil dicam, cum bello invectum totam in Asiam, cum pace dimisit: quem L Murena, pater huiusce, vehementissime vigilantissimeque vexatum, repressum magna ex parte, non oppressum reliquit: qui rex, sibi aliquot annis sumptis ad confirmandas rationes et copias belli, tantum spe conatuque valuit, ut se Oceanum cum Ponto, Sertorii copias cum suis coniuncturum putaret. ad 33
quod bellum duobus consulibus ita missis ut alter Mithridatem persequeretur, alter Bithyniam tueretur, alterius res, et terra et mari calamitosae, vehementer opes regis et nomen

XV *nimirum*] in apodosis, as in de off II § 71. Zumpt. Halm looks upon *nimirum* as proving that both words are a gloss, but this I greatly doubt.

pugnae certe etc] here the MSS present a hopeless muddle. I give the emended reading of Zumpt, which I prefer, and which is accepted by Kayser and Tischer. Halm and Sorof urge that *pugnarum non rudis* would be the correct Latin to express the sense. Zumpt in reply refers to II in Verrem II § 17 *provinciae rudis*, and Quint IX 3 § 10 where the *sciens pugnae* of Hor carm I 15 is explained as =*scitus pugnandi*.

cum pace] opposed to *cum bello*. He merely gave up what he had seized: this was in 85 B C, the first Mithridatic war.

L Murena] left behind in command by Sulla in 84 B C and ordered not to provoke Mithridates; he did not obey this and in the second Mithridatic war fared ill (83—81 B C) at the king's hands; here Cicero speaks with great oratorical license.

repressum] so in Catil I § 30.

aliquot] seven, 81—75 B C.

rationes] his 'position,' both as to plans and material of war, in relation to his enemy. Compare § 4 *tempestatum rationem*. Or 'plans.' Compare §§ 46, 83.

spe conatuque] I now accept this slight emendation of Klotz, as Halm has shewn that the MSS *ipse* is not to be explained in accordance with either the facts of the case or the context of this particular passage.

Oceanum] the Atlantic. *Pontum*, the Euxine. i e, rule the land from sea to sea.

Sertorii] for this see Mommsen, book V c 1.

33 *consulibus*] L Licinius Lucullus and M Aurelius Cotta; for the full history of this war, called the third Mithridatic, see Mommsen, book V c 2.

ita] 'with instructions that while the one (Lucullus) was to pursue Mithridates, the other (Cotta) was to cover Bithynia.'

calamitosae] The disaster of Chal-

auxerunt; L Luculli vero res tantae exstiterunt, ut neque maius bellum commemorari possit neque maiore consilio et virtute gestum. nam cum totius impetus belli ad Cyzicenorum moenia constitisset eamque urbem sibi Mithridates Asiae ianuam fore putasset, qua effracta et revulsa tota pateret provincia, ita perfecta ab Lucullo haec sunt omnia, ut et urbs fidelissimorum sociorum defenderetur et omnes copiae regis diuturnitate obsessionis consumerentur. quid? illam pugnam navalem ad Tenedum, cum contento cursu, acerrimis ducibus, hostium classis Italiam spe atque animis inflata peteret, mediocri certamine et parva dimicatione commissam arbitraris? mitto proelia, praetereo oppugnationes oppidorum: expulsus regno tandem aliquando tantum tamen consilio atque auctoritate valuit, ut se rege Armeniorum adiuncto novis opibus copiisque renovarit. XVI. ac si mihi nunc de rebus gestis esset nostri exercitus imperatorisque dicendum, plurima et maxima proelia
34 commemorare possem, sed non id agimus. hoc dico: si bellum hoc, si hic hostis, si ille rex contemnendus fuisset, neque tanta cura senatus et populus Romanus suscipiendum putasset, neque tot annos gessisset tanta gloria L Lucullus, neque vero

kedon, before the arrival of Lucullus, in B C 74.

constitisset] I can see no alternative but to accept this correction for *extitisset* of the MSS, which seems inexplicable with *impetus*. We must not however compare Liv XXI 49, XXII 32, for, as Halm remarks, the meaning there is 'had come to a standstill;' here, 'had come to a head.' The ruin of Mithridates' grand army before Kyzikus 74—73 B C is alluded to. 'When the full shock of the war had fallen at one swoop upon the fortress-town of Kyzikus.' Sorof also takes this view.

defenderetur etc] compare pro Archia § 21, de imp Cn Pomp §§ 20—21

obsessionis] generally = 'occupation,' here 'siege.' Compare Caes Bell Civ III 24, *obsessionem nostrorum omisit*.

acerrimis] sent by Sertorius. Compare de imp Cn Pomp § 21.

Italiam] to renew the civil war, it was thought. Spartacus was at this time roving about Italy unchecked.

rege Arm] Tigranes, his son-in-law.

XVI *proelia*] as Tigranocerta, B C 69.

34 *hoc...hic*] Pompeius was still fighting in Asia. *ille*, Mithridates had died this very year.

L Lucullus] I here accept with most editors Kayser's emendation of the MSS *Luculli*. Sorof well argues that had *senatus et populus Romanus* been the subject of *gessisset*, Cicero would have put *neque tanta cura* before *suscipiendum*.

eius belli conficiendi negotium tanto studio populus Romanus ad Cn Pompeium detulisset. cuius ex omnibus pugnis, quae sunt innumerabiles, vel acerrima mihi videtur illa, quae cum rege commissa est et summa contentione pugnata. qua ex pugna cum se ille eripuisset et Bosporum confugisset, quo exercitus adire non posset, etiam in extrema fortuna et fuga animum tamen retinuit regium. itaque ipse Pompeius, regno possesso, ex omnibus oris ac notis sedibus hoste pulso, [tamen] tantum in unius anima posuit, ut, cum omnia, quae ille tenuerat, adierat, sperarat, victoria possideret, tamen non ante, quam illum vita expulisset, bellum confectum iudicarit. hunc tu hostem, Cato, contemnis, quocum per tot annos tot proeliis tot imperatores bella gesserant? cuius expulsi et eiecti vita tanti *a Pompeio* existimata est, ut morte eius nuntiata denique bellum confectum arbitraretur. hoc igitur in bello L Murenam legatum fortissimi animi, summi consilii, maximi laboris cognitum esse defendimus, et hanc eius operam non minus ad consulatum adipiscendum quam hanc nostram forensem industriam dignitatis habuisse.

XVII. 'at enim in praeturae petitione prior renuntiatus est 35
Servius.' pergitisne vos tamquam ex syngrapha agere cum populo, ut, quem locum semel honoris cuipiam dederit, eundem in reliquis honoribus debeat? quod enim fretum, quem

cum rege] i e the night-battle or surprise by the Euphrates, B C 66. A good conjecture is the insertion of *nocte* here before *commissa* (F. Richter).

tenuerat] his kingdom. *adierat*, the Roman possessions in Asia. *sperarat*, the rule of the Caucasian districts. Halm.

a Pompeio] this is inserted by Kayser, and seems the best conjecture. Halm and Sorof accept it.

defendimus] see on § 5.

xvii 35 *at enim*] compare Madvig § 437 c.

pergitisne] The thought goes back, as Halm says, to § 18.

locum honoris] place on the roll of office, 'precedence.'

quod enim etc.] loosely quoted by Quint VIII 6 § 49, with the remark *illud vero longe speciosissimum genus orationis, in quo trium permixta est gratia, similitudinis, allegoriae, translationis.*

fretum] especially the Sicilian. *Euripum*, especially that between Euboea and the mainland, said to ebb and flow 7 times a day: see Mr Tozer's Geography of Greece, Lecture vii, for the wonderful tides of this channel. 'What strait, what sound, think you, has its waves lashed by such violent storms or turned by

euripum tot motus, tantas, tam varias habere putatis agitationes commutationesque fluctuum, quantas perturbationes et quantos aestus habet ratio comitiorum? dies intermissus unus aut nox interposita saepe perturbat omnia et totam opinionem parva nonnumquam commutat aura rumoris. saepe etiam sine ulla aperta causa fit aliud atque existimaris, ut nonnumquam ita factum esse etiam populus admiretur, quasi vero non ipse fecerit. nihil est incertius vulgo, nihil obscurius voluntate
36 hominum, nihil fallacius ratione tota comitiorum. quis L Philippum, summo ingenio, opera, gratia, nobilitate, a M Herennio superari posse arbitratus est? quis Q Catulum, humanitate, sapientia, integritate antecellentem, a Cn Mallio? quis M Scaurum, hominem gravissimum, civem egregium, fortissimum senatorem, a Q Maximo? non modo horum nihil ita fore putatum est, sed ne cum esset factum quidem, qua re ita factum esset, intellegi potuit. nam ut tempestates saepe certo aliquo caeli signo commoventur, saepe improviso nulla ex certa ratione obscura aliqua ex causa concitantur, sic in hac comitiorum tempestate populari saepe intellegas, quo signo commota sit, saepe ita obscura est, ut casu excitata esse vi-
37 deatur. XVIII. sed tamen si est reddenda ratio, duae res vehementer in praetura desideratae sunt, quae ambae in consulatu

such shifting tides as are the squalls and surges in the working of our elections?'

ratio] so § 36, and in § 4 with *tempestatum*.

comitiorum] for the comparison to a stormy sea compare pro Planc §§ 11, 15, Demosth F L § 136 p 383.

aura] the ablative, according to Halm. For the word he compares Virg Aen VII 646 *ad nos vix tenuis rerum perlabitur aura*.

quasi vero] so § 75, de off III § 39.

36 *opera*] activity in the forum, as Halm says. See on § 22.

M Herennio] consul in B C 93.

Cn Mallio] consul 105.

Q Fabio Maximo Eburno] in 116.

putatum est] very rare, but found in de divin I § 84. Zumpt.

nam ut etc] quoted loosely by Quint VIII 3 § 80.

obscura est] *commota tempestas*.

esse videatur] compare Quint X 2, § 18, Tac Dial 23.

XVIII 37 *ratio*] if one must account for Murena's having been returned as praetor later than Sulpicius. For *sed tamen* see on § 48.

desideratae] the want of which was felt when he was standing for the praetorship.

multum Murenae profuerunt: una, exspectatio muneris, quae et rumore non nullo et studiis sermonibusque competitorum creverat, altera, quod ii, quos in provincia ac legatione omnis et liberalitatis et virtutis suae testis habuerat, nondum decesserant. horum utrumque ei fortuna ad consulatus petitionem reservavit. nam et L Luculli exercitus, qui ad triumphum convenerat, idem comitiis L Murenae praesto fuit, et munus amplissimum, quod petitio praeturae desiderarat, praetura restituit. num tibi haec parva videntur adiumenta et subsidia 38
consulatus? voluntas militum? quae cum per se valet multitudine, cum apud suos gratia, tum vero in consule declarando multum etiam apud universum populum Romanum auctoritatis habet suffragatio militaris; imperatores enim comitiis consularibus, non verborum interpretes deliguntur. quare gravis est illa oratio: 'me saucium recreavit, me praeda donavit: hoc duce castra cepimus, signa contulimus: numquam iste plus militi laboris imposuit quam sibi sumpsit; ipse cum fortis, tum etiam

muneris] he had not been aedile, and had had no chance of giving any great show. The other candidates (and their agents) had made the most of this defect in Murena's qualifications for office.

creverat] 'had reached a great height, owing to a general report, and the remarks of rivals coloured with party-spirit.'

provincia] Tischer refers this to his service in Asia under his father.

legatione] as *legatus* to Lucullus.

decesserant] regular word for quitting a province, § 68 etc, the triumph of Lucullus was deferred by intrigues from the year 66 B C to 63.

comitiis] 'at the election,' so *gladiatoribus* in § 67. I here with Halm and Sorof follow the emendation of Hotomann. Zumpt, Kayser and Tischer keep the MSS reading *comes*. But see pro Planc § 21.

L Murenae] dative after *praesto fuit*. Halm.

restituit] as *praetor urbanus* he celebrated the *ludi Apollinares* with great splendour, thus the chance of winning popular favour, lost before, was 'given back' to him as his due.

38 *cum...cum...tum*] compare pro Rosc Am § 62, pro Rabir § 2, de leg agr I § 9. Here I have abandoned the emendation of Zumpt, who throws out *quae*.

valet multitudine] Plut Lucull 36, as Halm well remarks, throws some light on Cicero's high-flown statements. Pompeius left him but 1600 soldiers to share his triumph, and even these shewed little eagerness in attending him. Compare § 69.

suffragatio] 'canvassing,' as also I believe in pro Planc §§ 15, 44. See on § 16.

verborum interpretes] in which case the soldiers would be the worst of critics: the phrase is a hit at Sulpicius.

ipse] personally. For the recep-

felix.' hoc quanti putas esse ad famam hominum ac voluntatem? etenim si tanta illis comitiis religio est, ut adhuc semper omen valuerit praerogativae, quid mirum est in hoc felicitatis famam sermonemque valuisse?

XIX. sed si haec leviora ducis, quae sunt gravissima, et hanc urbanam suffragationem militari anteponis, noli ludorum huius elegantiam et scaenae magnificentiam valde contemnere, quae huic admodum profuerunt. nam quid ego dicam populum ac vulgus imperitorum ludis magno opere delectari? minus est mirandum, quamquam huic causae id satis est; sunt enim populi ac multitudinis comitia. quare, si populo ludorum magnificentia voluptati est, non est mirandum eam L Murenae
39 apud populum profuisse. sed si nosmet ipsi, qui et ab delectatione communi negotiis impedimur et in ipsa occupatione delectationes alias multas habere possumus, ludis tamen oblectamur et ducimur, quid tu admirere de multitudine indocta?
40 L Otho, [vir fortis,] meus necessarius, equestri ordini restituit

tion of a popular general compare Velleius II 104 § 5 *at vero militum conspectu eius elicitae gaudio lacrimae......videmus te, imperator, salvum recepimus......ego tecum, imperator, in Armenia, ego in Rhaetia fui*, etc.

quanti putas esse] = 'don't you think this has great weight?' So § 48 *quam securim* etc. Halm refers to Madvig § 492 b.

ad famam] compare on § 29 *ad honorem*.

omen praerogativae] the order of voting being determined by lot, the vote of the first century was taken as an *omen* or indication of the vote to follow, compare de divin I § 103, pro Planc § 49, and the bold metaphor in I in Verrem § 26 *dedit praerogativam* (Metellus) *suae voluntatis*.

XIX *urbanam*] 'civilian,' compare §§ 19, 41.

vulgus imperitorum] = *vulgus imperitum* as in de orat III § 195.

huic causae] for the matter in hand the fact is sufficient. *id*, the fact that the shows please the mob. Cicero argues, how then can one be surprised at Murena's defeating you?

populi] possessive genitive, compare Madvig § 281.

39 *admirere de...*] i e wonder, not at the common herd, but at some fact in connexion with them; here, at their fondness for the shows. Madvig de fin I § 4, who compares ad Att X 17 § 4 *de diplomate admiraris*.

indocta] Zumpt on *vulgus* § 38 well remarks that this is not at all the same as *multitudo indoctorum*.

40 *L Otho*] the *equites* seem to have had some precedence of the *plebs* in the theatre (though they did not sit all together), as they had had in the circus from very early times. C Gracchus had probably given them

non solum dignitatem, sed etiam voluptatem. itaque lex haec,
quae ad ludos pertinet, est omnium gratissima, quod honestis-
simo ordini cum splendore fructus quoque iucunditatis est
restitutus. quare delectant homines, mihi crede, ludi, etiam
illos, qui dissimulant, non solum eos, qui fatentur. quod ego
in mea petitione sensi; nam nos quoque habuimus scaenam
competitricem. quodsi ego, qui trinos ludos aedilis feceram,
tamen Antonii ludis commovebar, tibi, qui casu nullos feceras,
nihil huius istam ipsam, quam irrides, argenteam scaenam
adversatam putas? sed haec sane sint paria omnia: sit par 41
forensis opera militari, militaris suffragatio urbanae, sit idem
magnificentissimos et nullos umquam fecisse ludos: quid? in
ipsa praetura nihilne existimas inter tuam et huius sortem
interfuisse?

XX. huius sors ea fuit, quam omnes tui necessarii tibi

this distinction (Mommsen, bk IV ch 3), Sulla deprived them of it. When then Roscius Otho, tribune B C 67, carried his law which gave them 14 rows of seats in the theatre all together immediately behind the *orchestra* (where the Senators sat), he did what may fairly be spoken of as *restituit*, so also Velleius, II 32 § 3, compare Hor E 4 15, Epp I 1 62, Prof Mayor on Cic Phil II § 44, Juv III 153.

ad ludos] in ad Att II 19 § 3 we have mention of a *lex Roscia frumentaria*.

gratissima] it was a most unpopular measure. Cicero himself had in 64 B C sought to lessen the general dislike to it in the speech de L Othone, now lost, compare ad Att II 1 § 3.

trinos] not *tres*, as *ludi* denotes a compound object, which can be repeated and counted, so *bina castra*, *quinae litterae*. Madvig § 76 c. Compare Liv I 10 *bina spolia*, Hor Sat I 6 75 *octonis Idibus*.

aedilis] in B C 69. The three *ludi* were *Cereales*, *Florales*, *Romani*, as he tells us II in Verr V § 36; he had not however indulged in any great extravagance, de off II § 59, and he claims that he did not owe his later distinctions to these shows.

Antonii] as praetor in B C 66. Their splendour made Cicero feel very anxious, as Antonius was in league with Catiline at the elections for 63.

casu] as praetor he did not get the *urbana iurisdictio*, and he had never been aedile.

argenteam] probably some part of the stage was really covered with silver: the testimony of Plin H N XXXIII § 53 depends on the punctuation of the passage, and cannot be urged strongly. Even if (as I think) it does say literally what Cicero says here, we may doubt whether the present high-flown passage be not the only authority for Pliny's statement.

41 *sed haec......interfuisse?*] recapitulates from § 19. Zumpt.

sane] 'for all I care,' 'for the sake of argument.' So Sorof, who renders 'immerhin.'

optabamus, iuris dicundi: in qua gloriam conciliat magnitudo negotii, gratiam aequitatis largitio: qua in sorte sapiens praetor, qualis hic fuit, offensionem vitat aequabilitate decernendi, benevolentiam adiungit lenitate audiendi: egregia et ad consulatum apta provincia, in qua laus aequitatis, integritatis,
42 facilitatis ad extremum ludorum voluptate concluditur. quid tua sors? tristis, atrox: quaestio peculatus, ex altera parte lacrimarum et squaloris, ex altera plena tabularum atque indicum. cogendi iudices inviti, retinendi contra voluntatem; scriba damnatus, ordo totus alienatus; Sullana gratificatio reprehensa, multi viri fortes et prope pars civitatis

XX *iuris dicundi*] since Sulla there had been eight praetors, two for the Civil Courts, the *urbanus* and the so-called *peregrinus;* the other six were for the Criminal Courts. Murena was lucky in drawing the lot for the *praetura urbana.*

aequitatis] 'justice according to the spirit of the law,' opposed to the letter, as in § 27.

adiungit] i e *sibi*, 'wins,' compare § 42, pro Rosc Am § 116, pro Cluent § 3.

provincia] 'charge,' 'duty' are about the nearest words in English. A very good instance of the word used in its true meaning is Lucan I 338 *ultima Pompeio dabitur provincia Caesar.* See below on § 43.

ad extremum] 'to crown all, it is finished off with'... not of time, for the *ludi Apollinares* fall on a d III Non Iul (5th July). But I can find no parallel.

42 *tristis, atrox*] 'one of gloom and severity.'

peculatus] one of the *quaestiones perpetuae*, dealing with misappropriation or theft of the public property. *pecus* originally = moveable property. Freund well compares Gell XI 18 § 18, auct ad Herenn I § 22.

squaloris] the *reus* would appear in a *squalida vestis*. See Appendix A.

tabularum] account-books put in as evidence. Compare pro Fonteio § 12 *unae tabulae proferantur.* I in Verrem § 33 *nunc hominem tabulis, testibus, privatis publicisque litteris auctoritatibusque accusemus.*

indicum] much the same as the later *delatores*, 'informers.' *index* = an accuser who is himself partner in crime with the accused; compare div in Caecil § 34 *si tibi indicium postulas dari quod tecum una feceris.* We have the word below § 49, and in § 51 *non se purgavit sed indicavit*, 'informed against himself.'

scriba] the secretaries to the magistrates were called *scribae;* the *scribae quaestorii* and *aedilicii* were held in highest repute. They were citizens and had votes in elections. Freund. Their influence was great (de legib III § 48 probably refers to them in particular), and also their duties, compare II in Verr III § 183, where they are as here strangely spoken of as *ordo* (so *ordo aratorum* II in Verr II § 17). Cicero seems to be thinking of a case in which a *scriba* had by his power over the State ledgers been guilty of *peculatus* either as principal or accessory. For form of sentence compare Madvig § 442 a, obs 2.

gratificatio] the free allotments of land by Sulla to his soldiers. Com-

offensa; lites severe aestimatae; cui placet obliviscitur, cui dolet meminit. postremo tu in provinciam ire noluisti. non possum id in te reprehendere, quod in me ipso et praetore et consule probavi, sed tamen L Murenae provincia multas bonas gratias cum optima existimatione attulit. habuit proficiscens dilectum in Umbria: dedit ei facultatem res publica liberalitatis, qua usus multas sibi tribus, quae municipiis Umbriae conficiuntur, adiunxit: ipse autem in Gallia, ut nostri homines desperatas iam pecunias exigerent, aequitate diligentiaque perfecit. tu interea Romae scilicet amicis praesto fuisti.

pare de leg agr III § 6 *coniungitur impudens gratificatio cum acerba iniuria. reprehensa*, called in question by some decision.

viri fortes] i e *Sullani milites*.

pars] 'a considerable part,' as often. Compare Liv I 10 *Caeninenses Crustuminique et Antemnates erant ad quos eius iniuriae pars pertinebat.*

lites etc] if you have assessed the amount of the restitution to be made, taking a hard view of the case. [In the times of the empire the amount was fixed at four times the value of what was taken; *in quadruplum*, Jul Paull V 27.] This seems to have been confined to State cases, and was quite a separate matter from the verdict (*iudicium*). See in particular pro Cluent §§ 115—116 and Ramsay's note. In Gellius IV 4 § 2 we have a case of breach of promise of marriage, where *litem pecunia aestimabat*=used to assess the damages at such-and-such a sum. See also I in Verrem § 38.

cui placet] he who approves of it. Nobody 'gets anything by it.' Zumpt.

cui dolet] compare Plautus Epid I 2 44 *mihi dolet quum ego vapulo.*

meminit] and so the presiding magistrate gradually becomes unpopular.

bonas gratias] a regular combination, compare *aliquam bonam gratiam*, pro imp Cn Pomp § 71. For the plural =*gratias apud multos*, compare § 24.

liberalitatis] generous help in equipment-money etc. Zumpt, and I do not see how the word will bear any other interpretation. Compare §§ 72, 77.

tribus] the election of consuls took place at the *comitia centuriata*. It is certain that long before Cicero's time the centuries had been brought into some direct connexion with the tribes. Probably the same people now voted in both assemblies, and in bodies the organization of which did not essentially differ. But this is not the place to discuss what is perhaps the most difficult question in Roman history.

conficiuntur] are made up out of borough-towns in Umbria. These *municipia* are the old Latin colonies, planted as garrisons when Rome was gradually conquering all Italy. By the Julian law of BC 90 they received the Roman franchise.

ipse] he 'made a chance,' opposed to *dedit res publica*. So Zumpt takes it; but I admit that this is rather forced; and perhaps Ernesti's conjecture *ipsa*, adopted by Halm and Sorof, is better.

Gallia] *Transalpina*, in 64 BC

nostri homines] Roman capitalists, *publicani*, etc.

fateor, sed tamen illud cogita, non nullorum amicorum studia minui solere in eos, a quibus provincias contemni intellegunt.

43 XXI. et quoniam ostendi, iudices, parem dignitatem ad consulatus petitionem, disparem fortunam provincialium negotiorum in Murena atque in Sulpicio fuisse, dicam iam apertius, in quo meus necessarius fuerit inferior Servius, et ea dicam vobis audientibus, amisso iam tempore, quae ipsi soli re integra saepe dixi. petere consulatum nescire te, Servi, persaepe tibi dixi, et in his rebus ipsis, quas te magno et forti animo et agere et dicere videbam, tibi solitus sum dicere, magis te fortem accusatorem mihi videri quam sapientem candidatum. primum accusandi terrores et minae, quibus tu cotidie uti solebas, sunt fortis viri, sed et populi opinionem a spe adipiscendi avertunt et amicorum studia debilitant. nescio quo pacto semper hoc fit—neque in uno aut altero animadversum est, sed iam in pluribus—, simul atque candidatus accusationem

44 meditari visus est, ut honorem desperasse videatur. 'quid

non nullorum] i e place-hunters.

xxi 43 *provincialium*] 'official.' So *provincia*, 'an official charge,' § 41 etc.

amisso] 'though the time for applying them is now past and gone.' Compare de prov cons § 17 *tempore amisso annus est integer vobis expectandus*.

re integra] 'while it was yet time.' Compare on *est integrum* § 8.

consulatum] I do not think this an interpolation, though Halm would throw it out as such both here and in § 46. At the same time Zumpt's defence of its genuineness is too weak to be worth reproducing. The facts (*a*) that it is in all the MSS, and (*b*) that Quintilian XI 1 § 69 speaking of this passage says *quam decenter tamen Sulpicio, cum omnes concessisset virtutes, scientiam petendi consulatus ademit?* seem to me quite enough to call for some far stronger proof of its spuriousness than has been given by Halm. To myself the passage seems hardly complete without it; see §§ 15, 44. There is of course no implied opposition, such as 'though you do know how to stand for the Quaestorship and Praetorship.'

his rebus ipsis] his denunciations in the Senate, and his preparations for prosecuting a successful rival.

fortis] 'resolute.'

a spe adipiscendi] i e they make people think that he has given up all hope of success.

debilitant] compare § 45 and see on § 79.

fit...ut] is the connexion.

desperasse] to have given up for lost. For the acc after *despero*, compare de rep VI § 25, in Catil II § 19, ad fam XII 14 § 3, Lucan I 543. It is also constructed (*a*) with acc and inf, (*b*) with *de* and abl, (*c*) absolutely like 'to be in despair,' (*d*) with the dat e g *saluti* etc.

ergo? acceptam iniuriam persequi non placet?' immo vehementer placet, sed aliud tempus est petendi, aliud persequendi. petitorem ego, praesertim consulatus, magna spe, magno animo, magnis copiis et in forum et in campum deduci volo: non placet mihi inquisitio candidati, praenuntia repulsae, non testium potius quam suffragatorum comparatio, non minae magis quam blanditiae, non declamatio potius quam persalutatio, praesertim cum iam hoc novo more omnes fere domos omnium concursent et ex vultu candidatorum coniecturam

44 *magnis copiis*] a company of friends or clients usually escorted a candidate to the *Forum*, where he canvassed (*prensabat*), and on the day of election to the *Campus Martius*, where the voting went on. It was an object to secure as many Senators and *equites* as possible. The larger a man's company, the more likely he was thought to succeed. Compare auct petit cons §§ 16—18.

deduci] the regular word for escorting a candidate. Compare § 69 foll.

inquisitio] the hunting up of evidence by a candidate. Here it is of an unofficial proceeding for the purpose of having the materials ready to hand. See § 45. Usually of the official search for evidence after the charge had been formally made and received by the praetor. Compare II in Verr II § 11.

suffragatorum] see on § 16.

declamatio] 'ranting' against what displeases you.

persalutatio] 'general greeting' to all you meet. Compare *persalutare* in pro Flacco § 42.

praesertim cum] Madvig on de fin II § 25 explains these particles as = '*idque cum tamen*,' '*quamvis*,' 'and that though.' If so here, we must take them closely with *declamatio*, which must = 'stopping at home to practise a speech against Murena,' as Zumpt explains it. But it seems to me that Cicero was here *Madvigi securus* and meant 'I do not prefer the voice of sulky indignation to that of general greeting, particularly as people notice it and feel inclined to vote against such a candidate.' See §§ 24, 53, II in Verrem III § 127. Madvig adv II p 208 says that *declamatio* is out of place here, since it cannot = *commentatio causae*. Whoever reads Phil II § 42 with Prof Mayor's note will I think agree with me that it can. He then remarks that even if it could it would not take place *in publico ubi persalutantur homines*. I greatly doubt whether it is a necessary inference from Cicero's words that he meant it so, even if we acquiesce in the interpretation of *praesertim cum*. Still less, he adds, can the word in Latin = *indignantis clamor*. Cicero however in ad fam III 11 § 2 speaking of the *crimen maiestatis* says *etsi Sulla voluit ne in quemvis impune declamari* (or *declamare*) *liceret*, which comes too near this sense to render such an assertion safe. Madvig agrees with Bake in reading *denuntiatio*. I need hardly now add that this seems to me unnecessary.

iam] since it has got to this now-a-days, that......

omnium] sc *candidatorum*.

coniecturam faciant] so § 9. 'infer.'

faciant, quantum quisque animi et facultatis habere videatur.
45 'videsne tu illum tristem, demissum? iacet, diffidit, abiecit hastas.' serpit hic rumor: 'scis tu illum accusationem cogitare, inquirere in competitores, testes quaerere? alium faciam, quoniam sibi hic ipse desperat.' eius modi de candidato rumore amici intimi debilitantur, studia deponunt, aut desertam rem abiciunt, aut suam operam et gratiam iudicio et accusationi reservant. XXII. accedit eodem, ut etiam ipse candidatus totum animum atque omnem curam, operam diligentiamque suam in petitione non possit ponere; adiungitur enim accusationis cogitatio, non parva res, sed nimirum omnium maxima. magnum est enim te comparare ea, quibus possis hominem e civitate, praesertim non inopem neque infirmum, exturbare, qui et per se et per suos et vero etiam per alienos defendatur. omnes enim ad pericula propulsanda concurrimus, et qui non aperte inimici sumus, etiam alienissimis in capitis periculis amicissimorum officia et studia praestamus.
46 quare ego expertus et petendi et defendendi et accusandi molestiam sic intellexi: in petendo studium esse acerrimum, in defendendo officium, in accusando laborem. itaque sic statuo: fieri nullo modo posse, ut idem accusationem et petitionem [consulatus] diligenter adornet atque instruat: unum sustinere pauci possunt, utrumque nemo. tu, cum te de curriculo peti-

animi et facultatis] confidence and support.

45 *hastas*] weapon of offence. 'He has given up the contest.' *iacet.* Compare § 30.

faciam] 'I shall vote for another candidate.' Compare pro Planc § 9 *facit eos, a quibus est maxime ambitus*, § 18 *quin omnes, qui... ...te aedilem fecerint.* See on § 18 above.

xxii *accedit ut*] Madvig § 373, obs 3.

e civitate] the *lex Tullia* inflicted a penalty of ten years' exile.

non inopem etc] or he would never have come forward as a candidate. *te* and *hominem* are quite general.

alienissimis] compare § 8, de orat II § 200.

46 *esse in*] belongs to, is required by. Compare pro Planc § 10.

consulatus] not interpolated, I think. See on § 43.

adornet] 'equip,' 'prepare.' *instruat*: 'marshal,' 'array,' 'organize.' Compare pro Cluent §§ 18, 191. The metaphor seems to be a military one. Compare on § 22.

sustinere] 'carry out,' 'act.' Compare de orat II § 102 *tres personas unus sustineo*. This seems to be a stage metaphor.

tionis deflexisses animumque ad accusandum transtulisses, existimasti te utrique negotio satis facere posse: vehementer errasti. quis enim dies fuit, postea quam in istam accusandi denuntiationem ingressus es, quem tu non totum in ista ratione consumpseris? XXIII. legem ambitus flagitasti, quae tibi non deerat; erat enim severissime scripta Calpurnia. gestus est mos et voluntati et dignitati tuae. sed tota illa lex accusatio-

deflexisses] here we pass to a race. The change of metaphors here is very rapid, and does not appear to me happy. *te* is in the MSS, and, though against Cicero's usage, seems defensible. I believe that he is thinking of the circus. 'After turning yourself (like a chariot) out of the course,' i e you were like a driver who gives his attention during a race to some thing off his course, and divided attention was fatal to your success as it would be to his.

quis dies] *quis* adjectival. Compare Madvig § 88, obs 1.

in ista ratione] 'in carrying out that plan.' Compare § 83, I in Verr § 34 *tua ratio est ut secundum binos ludos mihi respondere incipias, mea ut ante primos ludos comperendinem*, II in Verrem V § 173 *non est alienum meis rationibus*.

xxiii *erat*] 'there was the Calpurnian law, with its provisions of the strictest.'

Calpurnia] passed in BC 67 by C Calpurnius Piso consul that year, at the desire of the Senate. It was strict, and quite superseded all the earlier enactments on the subject. It inflicted a heavy fine on the candidate who (whether successful or not) had employed bribery; it also deprived him for ever of the right of holding office or sitting in the Senate, but allowed him to stay at Rome. From a fragment of the speech *pro Cornelio* and the comment of Asconius thereon (quoted in Orelli and Baiter's onomasticon) it appears that the *divisores* were greatly opposed to it. Probably it contained a clause inflicting a fine upon these bribery-agents, perhaps also upon other agents of different names. Moreover one who had been condemned for *ambitus* might regain his former position (*in integrum restituebatur*) by procuring the conviction of another on the same charge: a principle of reward well-established in Roman criminal legislation. See pro Balbo § 57, pro Cluent § 98, Quintil XI 1 § 79. He would not however recover the fine.

gestus est mos] this was in the meeting of the Senate at which the *senatusconsultum* was carried leading to the *lex Tullia* in this very year.

tota illa lex] the *lex Tullia*. It probably followed the terms of the *senatusconsultum*, given in § 67. Another provision is quoted by Cicero himself, in Vatin § 37 *quum mea lex dilucide vetet biennio quo quis petet petiturusve sit gladiatores dare nisi ex testamento praestituta die*, also pro Sest § 133. It was a supplement to the Calpurnian law, defining the proofs of guilt more closely, and adding to the penalties, (1) of Senators, i e candidates, ten years' exile, (2) of the agents, an increase of the previous fine. Moreover, any juror or witness who pleaded illness as an excuse for non-attendance, thus impeding the trial, was to be liable to some penalty not now known. Halm however refers this penalty to the

nem tuam, si haberes nocentem reum, fortasse armasset, peti-
47 tioni vero refragata est. poena gravior in plebem tua voce efflagitata est; commoti animi tenuiorum: exilium in nostrum ordinem; concessit senatus postulationi tuae, sed non libenter duriorem fortunae communi condicionem te auctore constituit. morbi excusationi poena addita est: voluntas offensa multorum, quibus aut contra valetudinis commodum laborandum est aut incommodo morbi etiam ceteri vitae fructus relin-

accused. For the whole of this difficult and disputed passage see Appendix F.

47 *plebem*] I agree with Zumpt in referring this to the agents, especially the *divisores*. See on the last section.

efflagitata est] was called for and carried.

commoti] a feeling of 'our occupation 's gone.'

nostrum ordinem] since Sulla had made the quaestorship a passport to the Senate, candidates had practically come only from the senatorial order. Halm.

concessit] 'gave way to,' with no object. Compare § 57. Halm. Sorof adds de fin III § 1, ad fam IV 3 § 4.

fortunae communi] a strange way of stating it. They had the option of abstaining from bribery. But they did not generally do so, and in B C 67 it was the Senators who had opposed the hard provisions of the proposed *lex Cornelia* of C Cornelius the tribune, and had procured the passing of the *lex Calpurnia* in its stead.

excusatio] often employed to defer the hearing of such a charge till the accused entered on his office, and was out of the law's reach. If this be meant here of the accused, the penalty was doubtless, as Halm says, directed against the candidates. But it may equally well (and with more likelihood, it seems to me) be referred to cases of witnesses or jurors falling ill. See below, *quibus......laborandum est*, and note. They often fell ill when a friend was on his trial, and hindered proceedings. We know from Phil V § 14 that the president of the court was not obliged to allow the exemption claimed by one summoned to act on a jury, unless he approved of the ground alleged.

addita est] that is, on the top of their illness. So Zumpt takes it. See Phil II § 31 *cur quaestores additi?* and Prof Mayor's note. But I am rather inclined to take *morbi excusationi* as abstract for concrete (see on §§ 10, 16), and for *addita est* to compare Virg Aen VI 90 *Teucris addita Iuno*, Hor carm III 4 78 *nequitiae additus custos*, on which Orelli well cites Plat apol 30 e οἷον δή μοι δοκεῖ ὁ θεὸς ἐμὲ τῇ πόλει προστεθεικέναι. If we take it thus, 'inflicted' will almost express all that is meant.

laborandum] i e stand the wear and tear of a trial in court.

fructus] what the allusion here is we do not know. Halm has a note in which he refers to the punishment of exile. But Zumpt rightly urges that *multorum* cannot be the accused candidates, and his conjecture, that jurors or witnesses who stayed away because of illness were to lose some privileges (e g the right of sitting on a jury or giving evidence) for the future, seems to me far more probable.

quendi. quid ergo? haec quis tulit? is, qui auctoritati senatus, voluntati tuae paruit, denique is tulit, cui minime proderant. quid? illa, quae mea summa voluntate senatus frequens repudiavit, mediocriter adversata tibi esse existimas? confusionem suffragiorum flagitasti, prorogationem legis Maniliae, aequationem gratiae, dignitatis, suffragiorum. graviter homines honesti atque in suis vicinitatibus et municipiis gratiosi tulerunt, a tali viro esse pugnatum, ut omnes et dignitatis et gratiae gradus tollerentur. idem editicios iudices esse voluisti, ut

haec] these provisions, i e this law.

is] Cicero.

proderant] Cicero's own course was run. He is making out that Sulpicius was the real author of the severity of the Tullian law. He was known to have advocated even stronger measures, and this, says Cicero, was a bad thing for his candidature.

confusionem suffragiorum] some plan by which votes were to have equal weight. 'Mass-voting' as opposed to the nice gradations of the *comitia centuriata*, but whether on the plan of the *comitia tributa*, as Zumpt conjectures, is not so clear. Halm well says, 'as the proposal of Sulpicius came out in the course of a debate on a new *lex de ambitu*, there is great probability in the conjecture that it was not meant to refer to elections generally but only to fresh elections held when a magistrate elect had been convicted of *ambitus*.' Zumpt comments on the extreme difficulty of ensuring a formal meeting of the centuries within a given time, which strengthens this view.

prorogationem] the extension of the period of its application. Compare ad Att XIII 43 *prorogatio diei*, in a slightly different sense. Here it is like *prorogare imperium* Phil II § 24, etc. The conjecture *perrogationem* seems more strange than clear.

Maniliae] All we know is that C Manilius the tribune carried in 67 BC a law concerning the *libertini*, which was at once annulled. But I doubt whether this is meant in any way here.

vicinitatibus] this correction seems necessary. It is in two MSS and Halm adopts it. Compare pro Planc §§ 22, 23, pro Cluent § 11, pro Rosc Am § 15, auct petit cons § 24. Vulg *civitatibus*, which Zumpt refers to the *coloniae Romanae*.

editicios iudices] named by the accuser, with power to the accused of rejecting by challenge a certain number: the most probable explanation of this difficult passage is that proposed by Zumpt on comparison of pro Planc § 41; there were to be 125 jurors, *equites* and *tribuni aerarii*, nominated by the accuser from the register (*album iudicum*), of these the *reus* might reject 75, leaving 50, also 25 Senators were to be appointed, but by some other means, and none of these could be rejected: there would thus be a jury of 75 in all left for the trial. [These are distinct from the *editi iudices*, of whom any number might be rejected, according to Wunder on pro Planc proleg III iii 3, (though he is not free from error in that article); and there is no connexion with the *editicii iudices* from particular tribes who were by the *lex Licinia* of BC 55 appointed to try cases of *sodalicia*.]

odia occulta civium, quae tacitis nunc discordiis continentur, in fortunas optimi cuiusque erumperent. haec omnia tibi accusandi viam muniebant, adipiscendi obsaepiebant.

48 atque ex omnibus illa plaga est iniecta petitioni tuae, non
tacente me, maxima, (de qua ab homine ingeniosissimo et
copiosissimo, Q Hortensio, multa gravissime dicta sunt. quo
etiam mihi durior locus est dicendi datus, ut, cum ante me et
ille dixisset et vir summa dignitate et diligentia et facultate
dicendi, M Crassus, ego in extremo non partem aliquam
agerem causae, sed de tota re dicerem, quod mihi videretur.
itaque in isdem rebus fere versor, et, quoad possum, iudices,
occurro vestrae sapientiae.) XXIV. sed tamen, Servi, quam te
securim putas iniecisse petitioni tuae, cum populum Romanum
in eum metum adduxisti, ut pertimesceret ne consul Catilina
fieret dum tu accusationem comparares deposita atque abiecta
49 petitione? etenim te inquirere videbant, tristem ipsum,
maestos amicos; observationes, testificationes, seductiones tes-

odia] as the accuser would take care to name men who had a grudge against the accused, while the power of rejection was limited.

adipiscendi] absolutely, as in § 43.

48 *illa plaga*] the 'blow' is explained below, *cum pop Rom in eum metum adduxisti.*

ut] 'namely, the task of'...

diligentia] the great merit of Crassus, compare Brutus § 233.

occurro] in a friendly sense, 'I am trying to help you to a wise verdict,' 'meeting your wisdom half-way,' compare pro Cluent § 63, pro Deiot § 40 *misericordia occurrere solet ipsa supplicibus et calamitosis.*

sapientiae] this reading has all the weight of MSS authority. One gives *sacietati*, and from this and indications in another most Editors emend into *satietati.* I prefer with Zumpt and Tischer the quite intelligible reading of the MSS.

XXIV *sed tamen*] resumes from *illa plaga* etc above, after the remarks *de qua......sapientiae* put in parenthetically. Compare pro Planc § 18.

putas] see on § 38.

cum adduxisti] 'at the time when you brought'......see Madvig § 358.

49 *inquirere*] compare § 45.

observationes] i e of your rivals, by agents of your own, to see that nothing is done in violation of the law, compare pro Rosc Am § 22, auct petit cons § 55 *fac se ut abs te custodiri atque observari sciant.* Zumpt.

testificationes] the getting together of depositions in proof of illegal practices, compare II in Verr V §§ 101—103.

seductiones] taking them aside and talking anxiously to them, 'whisperings to witnesses,' compare Persius, II 4, V 143, VI 42 *paullum a turba seductior audi.*

tium, secessiones subscriptorum animadvertebant, quibus rebus certe spes candidatorum obscuriores videri solent. Catilinam interea alacrem atque laetum, stipatum choro iuventutis, vallatum indicibus atque sicariis, inflatum cum spe consulatus tum collegae mei, quemadmodum dicebat ipse, promissis, circumfluente colonorum Arretinorum et Faesulanorum exercitu, quam turbam dissimillimo ex genere distinguebant homines perculsi Sullani temporis calamitate. vultus ipsius erat plenus furoris, oculi sceleris, sermo adrogantiae, sic ut ei iam exploratus et domi conditus consulatus videretur. Murenam con-

secessiones] going aside together to talk over something, compare Ovid met II 465 *deque suo iussit secedere coetu*.

subscriptorum] those whom the principal counsel has 'with him in the case,' 'juniors.' Compare div in Caecil § 51 *non esse hos tales viros commissuros, ut ad causam tantam, a me susceptam, mihi creditam, quisquam subscriptor me invito aspirare possit*. The word originally denoted all *accusatores*. *subscriptio* was the signing of names of prosecutors in the presence of the Praetor, by which they pledged themselves to prosecute.

obscuriores] Halm in ed 1872 gives the above reading of this corrupt passage, and it seems the best. But for this use of *obscuriores* I can find no parallel. § 16 seems nearest.

indicibus] see above on § 42 and compare pro Sestio § 95.

consulatus] Halm's emendation, which I accept provisionally, as I am sure that the MSS *militum collegae* will not stand.

circumfluente] this reading from MS Lag 9 and two others, is, I believe rightly, followed by Zumpt. Sorof prefers *exercitum* to ablative. If the vulgate *circumfluentem exercitu* be kept, compare Lael § 52.

colonorum] Sulla's veterans, settled by him at Arretium and Faesulae; their extravagance had reduced them to poverty and debt. Compare in Catil II § 20, Sallust Catil 28.

dissimillimo ex genere] epithet of *quam turbam*. 'A most motley crowd.' *turbam* refers to all his previously mentioned comrades.

distinguebant] gave a further variety to. As we say 'picked out with white' of a carriage, etc. So *distinguere orationem*, de orat II § 36. *retia maculis distincta*, 'where the empty mesh sets off the rope,' Ovid heroid V 19. 'Thrown into relief as a whole by the presence of men stricken with the general ruin of Sulla's Reign of Terror.'

homines] relics of the Marian party, having nothing in common with the rest of Catiline's supporters save impoverishment and readiness for violence.

calamitate] compare pro Caec § 95 *ut nihil de illo tempore, nihil de calamitate reipublicae querar*.

exploratus] 'assured,' as usual in Cicero.

domi conditus] a strong figure. 'In safe keeping at his house,' 'under lock and key.' Zumpt compares II in Verr II § 5.

temnebat, Sulpicium accusatorem suum numerabat, non competitorem: ei vim denuntiabat, rei publicae minabatur. XXV.
50 quibus rebus qui timor bonis omnibus iniectus sit quantaque desperatio rei publicae, si ille factus esset, nolite a me commoneri velle: vosmet ipsi vobiscum recordamini. meministis enim, cum illius nefarii gladiatoris voces percrebruissent, quas habuisse in contione domestica dicebatur, cum miserorum fidelem defensorem negasset inveniri posse, nisi eum qui ipse miser esset; integrorum et fortunatorum promissis saucios et miseros credere non oportere: quare qui consumpta replere, erepta recuperare vellent, spectarent, quid ipse deberet, quid possideret, quid auderet: minime timidum et valde calamitosum esse oportere eum, qui esset futurus dux et signifer calami-
51 tosorum:—tum igitur, his rebus auditis, meministis fieri senatus consultum referente me, ne postero die comitia haberentur, ut de his rebus in senatu agere possemus. itaque postridie frequenti senatu Catilinam excitavi atque eum de his rebus iussi, si quid vellet, quae ad me adlatae essent, dicere. atque ille, ut semper fuit apertissimus, non se purgavit, sed indicavit atque induit. tum enim dixit duo corpora esse rei publicae, unum

numerabat] so ad Att VII I § 3 *me uterque numerat suum.*

ei] *Sulpicio.*

XXV 50 *factus*] so *factus* and *fiant*, § 18.

nolite velle] not rare, but remarkable, compare pro Caelio § 79, pro Balbo § 64, Phil VII § 25. Halm well points out that *ne volueritis* seems to be avoided.

vosmet ipsi etc] compare Phil II § 1, pro Caelio § 43.

meministis] it is caught up and the object expressed (*fieri s c*) in the next section.

contione] in 63 BC. That given by Sall Cat 20 was in 64. Zumpt.

integrorum] opposed to *saucios.*

replere] Sulla's veterans. *recuperare*, the Marian party. Halm.

quid ipse deberet] 'the debts of himself, their ringleader.'

51 *senatus consultum*] on a d XII Kal Nov (Oct 20), in Catil I § 7.

apertissimus] in bad sense, 'unabashed as ever,' compare Phil II § III *disertissimum cognovi avum tuum, at te etiam apertiorem in dicendo.*

indicavit] turned evidence against himself. See above on § 42.

induit] sc *in laqueos.* Zumpt compares II in Verr V § 73 *at quemadmodum ipse se induit priore actione!* § 166 *sua confessione induatur ac iuguletur necesse est*, II § 106 *videte ut, dum expedire sese vult, induat.*

unum] the senatorial party. *infirmo capite*, sc the consuls, and in particular Cicero. *alterum*, the 'people's party,' or 'opposition.'

debile, infirmo capite, alterum firmum, sine capite: huic, si ita de se meritum esset, caput se vivo non defuturum. congemuit senatus frequens neque tamen satis severe pro rei indignitate decrevit; nam partim ideo fortes in decernendo non erant, quia nihil timebant, partim, quia timebant. tum erupit e senatu triumphans gaudio, quem omnino vivum illinc exire non oportuerat, praesertim cum idem ille in eodem ordine paucis diebus ante Catoni, fortissimo viro, iudicium minitanti ac denuntianti respondisset, si quod esset in suas fortunas incendium excitatum, id se non aqua, sed ruina restincturum. XXVI. his tum 52
rebus commotus, et quod homines iam tum coniuratos cum gladiis in campum deduci a Catilina sciebam, descendi cum firmissimo praesidio fortissimorum virorum et cum illa lata insignique lorica, non quae me tegeret—etenim sciebam Catilinam non latus aut ventrem, sed caput et collum solere petere—, verum ut omnes boni animadverterent, et, cum in

ita] so as to make it worth his while to put himself at their head.

decrevit] what, we know not. Cicero seems to have desired the early bestowal of the power of life and death by the decree *videant consules* etc, see on § 6. This was not done until Manlius had raised the standard of revolt in Etruria, Sall Cat 29.

nihil timebant] i e they thought the danger exaggerated. *timebant*, were nervous, and hence irresolute.

tum] Sorof urges that as this conjunction has been used twice just above, we want something more forcible here. He also points out that the MSS indicate a reading of *cum* in the archetype. He would read *ille vero*. I would rather consider that a *vero* has fallen out after *tum* through confusion with *eru* following.

erupit] compare in Catil II § 1 *abiit, excessit, evasit, erupit*.

in eodem ordine] in the Senate.

restincturum] so Sall Cat 31 fin *incendium meum ruina restinguam*.

XXVI 52 *homines iam tum coniuratos*] I have restored these words from the MSS, as Halm's reasons for throwing them out do not seem to me conclusive.

cum gladiis] 'sword in hand.' Compare Phil II § 112 *cur homines omnium gentium maxime barbaros, Ityraeos, cum sagittis deducis in forum?*

descendi] for fact compare in Catil I § 11.

insigni] 'conspicuous.'

lorica] for Cicero's breastplate on this occasion compare Plut Cic 14, Dion Cassius XXXVII 29.

caput et collum] he has already called him *gladiator*, § 50.

petere] the proper word for the cuts and thrusts in gladiatorial combats. So we find *petendo vehementer* in orator § 228, and the substantive *petitio* 'a lunge' in Catil I § 15.

animadverterent] Plutarch says

metu et periculo consulem viderent, id quod est factum, ad opem praesidiumque concurrerent. itaque cum te, Servi, remissiorem in petendo putarent, Catilinam et spe et cupiditate inflammatum viderent, omnes, qui illam ab re publica pestem
53 depellere cupiebant, ad Murenam se statim contulerunt. magna est autem comitiis consularibus repentina voluntatum inclinatio, praesertim cum incubuit ad virum bonum et multis aliis adiumentis petitionis ornatum. qui cum honestissimo patre atque maioribus, modestissima adulescentia, clarissima legatione, praetura probata in iure, grata in munere, ornata in provincia, petisset diligenter et ita petisset, ut neque minanti cederet neque cuiquam minaretur, huic mirandum est magno adiumento Catilinae subitam spem consulatus adipiscendi fuisse?

54 nunc mihi tertius ille locus est reliquus orationis, de ambitus criminibus, perpurgatus ab his, qui ante me dixerunt, a me, quoniam ita Murena voluit, retractandus: quo in loco C Postumo, familiari meo, ornatissimo viro, de divisorum indiciis et de deprehensis pecuniis, adulescenti ingenioso et bono, Ser Sulpicio, de equitum centuriis, M Catoni, homini in omni virtute excellenti, de ipsius accusatione, de senatus consulto, de re publica respondebo.

that he shifted his tunic, so as to shew the breastplate, τοῦ δὲ θώρακος ἐπιτηδὲς ὑπέφαινέ τι.

53 *magna est*] has great weight = *multum valet*.

praesertim cum] see on § 44.

incubuit ad] has lent its force to. Compare § 59 *incumbenti ad eius perniciem*, ad Att I 19 § 4 *ad voluntatem perferendae legis incubuerat*.

aliis] besides his being good. The *adiumenta* are set forth shortly in the next sentence.

in iure] § 41. *in munere*, §§ 37, 38. *in provincia*, § 42.

et ita petisset] compare de imp Cn Pomp § 10 *dicam alio loco et ita dicam*.

minanti] a hit at Sulpicius' threats of prosecuting him.

minaretur] as Sulpicius did, and lost himself many votes. Halm.

Catilinae—consulatus] so Brutus § 163 *Scaevolae dicendi elegantia*, etc.

54 *locus*] the third head. Compare § 11.

perpurgatus] 'cleared up,' with a side allusion to exculpating Murena. Tischer well compares de divin II § 2 *perpurgatus est is locus a nobis quinque libris*. *a me*, not *mihi*, for uniformity, as in pro Planc § 8.

de equitum centuriis] see on § 73.

de senatus consulto] § 67.

de re publica] concerning our country's interests, in §§ 74 foll, or with Halm 'the political situation.'

XXVII. sed pauca, quae meum animum repente moverunt, 55
prius de L Murenae fortuna conquerar. nam cum saepe antea, iudices, et ex aliorum miseriis et ex meis curis laboribusque cotidianis fortunatos eos homines iudicarem, qui remoti a studiis ambitionis otium ac tranquillitatem vitae secuti sunt, tum vero in his L Murenae tantis tamque improvisis periculis ita sum animo adfectus, ut non queam satis neque communem omnium nostrum condicionem neque huius eventum fortunamque miserari: qui primum, dum ex honoribus continuis familiae maiorumque suorum unum ascendere gradum dignitatis conatus est, venit in periculum, ne et ea, quae relicta, et haec, quae ab ipso parta sunt, amittat, deinde propter studium novae laudis etiam in veteris fortunae discrimen adducitur. quae 56
cum sunt gravia, iudices, tum illud acerbissimum est, quod habet eos accusatores non qui odio inimicitiarum ad accusandum, sed qui studio accusandi ad inimicitias descenderint. nam ut omittam Servium Sulpicium, quem intellego non iniuria L Murenae, sed honoris contentione permotum, accusat paternus amicus, C Postumus, vetus, ut ait ipse, vicinus ac necessarius, qui necessitudinis causas complures protulit, simul-

XXVII 55 *cum iudicarem,...tum sum adfectus*] the former verb in the subjunctive to express a comparison between the general and particular case. Madvig § 358, obs 3. Compare de nat deor I § 1.

iudicarem] discussed later in de off I §§ 70, 71.

non queam] the regular form of the first person in Cicero. Freund compares II in Verr IV § 89, pro Mil § 77. So in third person plural Tusc disp II § 65.

nostrum] 'us statesmen.'

eventum] the outcome of his public life. Compare de divin II § 22 *quae enim vita fuisset Priamo, si ab adolescentia scisset quos eventus senectutis esset habiturus?*

primum...deinde] the two things are the same. Zumpt well compares auct ad Herenn IV § 54 *expolitio est, quum in eodem loco manemus et aliud atque aliud dicere videmur.*

continuis] compare § 15.

relicta] before this word Halm inserts *ei*.

56 *odio inimicitiarum*] genitive of possession or relation. See on § 1, and compare pro Mil § 78. The sing *inimicitia* seems only used in good prose as an abstract philosophical term.

honoris contentione] see on § 11.

necessitudinis causas] reasons for intimacy. So div in Caecil § 59 *ridiculum est putare causam necessitudinis ad inferendum periculum iustam videri oportere.*

tatis nullam commemorare potuit; accusat Ser Sulpicius, sodalis filius, cuius ingenio paterni omnes necessarii munitiores esse debebant; accusat M Cato, qui quamquam a Murena nulla re umquam alienus fuit, tamen ea condicione erat in hac civitate natus, ut eius opes et ingenium praesidio multis etiam alienissimis, exitio vix cuiquam inimico esse deberent.

57 respondebo igitur Postumo primum, qui nescio quo pacto mihi videtur praetorius candidatus in consularem quasi desultorius in quadrigarum curriculum incurrere. cuius competitores si nihil deliquerunt, dignitati eorum concessit, cum petere destitit: sin autem eorum aliquis largitus est, expetendus amicis est, qui alienam potius iniuriam quam suam persequatur.

DE POSTUMI CRIMINIBUS. DE SERVII ADULESCENTIS.

58 XXVIII. venio nunc ad M Catonem, quod est firmamentum ac robur totius accusationis, qui tamen ita gravis est accusator et

sodalis filius] his father had belonged to some *sodalitas* or *collegium* with Murena, and such *sodales* were ordinarily expected to support each other. Also the son was expected to take the same course as his father. Sorof would keep the MSS reading *filii*.

accusat] this repetition is called ἀναφορὰ, compare that of *negat* § 74, *nolite* § 80, *Verres* II in Verr II § 26.

munitiores] sc rather than attacked.

praesidio...exitio] Roby Lat Gr II xxv—lvi.

etiam alienissimis] compare §§ 8, 45.

57 *desultorius*] sc *equus*, a horse trained for the performance of the *desultor* in the circus. This person usually had two horses under command, Propert V (IV) 2 35 *eius traicit alterno qui leve pondus equo*, compare Liv XXIII 29. These performances rank below the *quadrigae*, so that what Cicero means is, that Postumus, a candidate for an office inferior to the consulship, had better have left candidates for the latter to settle their own affairs. Compare also Suet Julius 39, Liv XLIV 9.

dignitati etc] either they did not bribe, in which case Postumus has confessed their superiority; or they did, and then what a hearty friend is he who avenges the wrongs done to a friend rather than those done to himself; the point of the banter is that Postumus had better have taken his late defeat good-humouredly. Compare II in Verrem III § 169 *honestius est alienis iniuriis quam* (*re*) *sua commoveri*.

amicis] i e he must be a very useful friend; irony, as he was hard on Murena, compare § 56. So Zumpt after MS Lag 9, better than *amicus*. Halm after O Heine now reads *amicus ei*, i e, Postumus needs another Postumus.

SERVII] sc *criminibus*. These titles are added by Cicero himself, like

vehemens, ut multo magis eius auctoritatem quam criminationem pertimescam. in quo ego accusatore, iudices, primum illud deprecabor, ne quid L Murenae dignitas illius, ne quid exspectatio tribunatus, ne quid totius vitae splendor et gravitas noceat, denique ne ea soli huic obsint bona M Catonis, quae ille adeptus est, ut multis prodesse possit. bis consul fuerat P Africanus et duos terrores huius imperii, Karthaginem Numantiamque, deleverat, cum accusavit L Cottam. erat in eo summa eloquentia, summa fides, summa integritas, auctoritas tanta quanta in imperio populi Romani, quod illius opera tenebatur. saepe hoc maiores natu dicere audivi hanc accusatoris eximiam vim plurimum L Cottae profuisse. noluerunt sapientissimi homines, qui tum rem illam iudicabant, ita quemquam cadere in iudicio, ut nimiis adversarii viribus abiectus

those in pro Fonteio § 20. Pliny the younger, Epp I 20 § 7, says *testes sunt multae multorum orationes et Ciceronis pro Murena, pro Vareno, in quibus brevis et nuda quasi subscriptio quorundam criminum solis titulis indicatur; ex his apparet illum permulta dixisse, cum ederet, omisisse.*

xxviii 58 *quod*] when an observation is appended to an idea already sufficiently defined, the relative is accommodated to the substantive which follows, compare Madvig § 316: add Phil V § 39, II § 54 and Prof Mayor's note.

firmamentum ac robur] so de imp Cn Pomp § 10.

tamen] the editors leave this unnoticed; I believe that it requires some such explanation as the following: *auctoritatem* refers to *gravis*, and *criminationem* to *vehemens: ita ...ut*, as often, = 'though' ... 'yet,' compare ad Att V 9 § 2 *hoc tibi ita mando ut dubitem an etiam te rogem ut...*, 'while giving you this commission, I still am in doubt whether to go further and ask you to...' also div in Caecil § 44. The sense of this passage will then be 'while as a prosecutor he is both weighty and energetic, still I feel far more afraid of the weight he may carry than of the charges he brings,' compare on *abrogarem* § 5.

tribunatus] he was tribune-elect, a fact which might lend more weight to his charges.

bis consul] B C 147 and 134. P Corn Scipio Aemilianus Africanus minor. See Mommsen, bk IV c 1.

duos terrores] so called also in de republ I § 71, Velleius II 4 § 5.

L Aurel Cotta] consul in B C 144, in the Brutus § 82 we are told that he was thought a *veterator*, probably in reference to his oratory; but he is said to have bought his acquittal. We have the case mentioned from a different point of view in div in Caecil § 69.

tenebatur] was maintained, upheld, compare § 83 *totam rempublicam vos in hac causa tenetis*, de nat deor II § 31.

dicere audivi] compare Madvig § 395, obs 5.

cadere] should lose his case, compare *causa cadere* in § 9.

59 videretur. quid? Ser Galbam—nam traditum memoriae est —nonne proavo tuo, fortissimo atque florentissimo viro, M Catoni incumbenti ad eius perniciem populus Romanus eripuit? semper in hac civitate nimis magnis accusatorum opibus et populus universus et sapientes ac multum in posterum prospicientes iudices restiterunt. nolo accusator in iudicium potentiam adferat, non vim maiorem aliquam, non auctoritatem excellentem, non nimiam gratiam: valeant haec omnia ad salutem innocentium, ad opem impotentium, ad auxilium calamitosorum, in periculo vero et in pernicie civium repudi-
60 entur. nam si quis hoc forte dicet, Catonem descensurum ad accusandum non fuisse, nisi prius de causa iudicasset, iniquam legem, iudices, et miseram condicionem instituet periculis hominum, si existimabitur iudicium accusatoris in reum pro aliquo praeiudicio valere oportere.

XXIX. ego tuum consilium, Cato, propter singulare animi mei de tua virtute iudicium, vituperare *nolo*: nonnulla forsitan conformare et leviter emendare possim. non multa peccas,

abiectus] overthrown, struck down, compare in Catil II § 1 *se perculsum atque abiectum esse sentit.*

59 *quid?*] so § 33. Compare Madvig § 479 d, obs 1.

Ser Sulpicius Galba] who as praetor in Spain B C 151 had treacherously massacred 30,000 Lusitanians. Suet Galba 3. For his oratorical power, his trial and acquittal, compare Brutus § 89, de orat I § 227.

incumbenti ad] compare on § 53, and add in Catil IV § 4 *incumbite ad salutem reipublicae.*

potentiam] with inferiors, *gratiam*, with superiors in rank, standing, etc. Compare pro Caec § 73 *quod neque inflecti gratia neque perfringi potentia neque adulterari pecunia possit*, I in Verrem § 15, pro Planc § 24.

60 *de causa*] 'on the merits of the case.'

legem...condicionem] 'rule'...'principle.' So pro Caec § 40 *videte per deos immortales, quod ius nobis quam condicionem vobismet ipsis quam denique civitati legem constituere velitis.* Compare also pro Flacco § 24, pro Cluent § 150. Yet Cicero employs this very line of argument in pro Sulla § 85, as Halm well points out.

pro aliquo praeiudicio] 'as a sort of recorded verdict.' See div in Caecil § 12 *de quo non praeiudicium sed plane iudicium iam factum putatur*, where the meaning of the word comes out forcibly.

xxix *nolo*] Boot's brilliant conjecture. The MSS have a lacuna here, except one inferior one, which reads *non audeo*, and Lag 9 which has *non possum*.

conformare] 'bring into the right shape.' So Halm and Freund: more precisely Madvig on de fin IV § 5 *qua mores conformari putantur*, says *Ethica mores constituit e quales esse*

inquit ille fortissimo viro senior magister, sed peccas; te regere possum. at ego verissime dixerim peccare te nihil neque ulla in re te esse huius modi, ut corrigendus potius quam leviter inflectendus esse videare. finxit enim te ipsa natura ad honestatem, gravitatem, temperantiam, magnitudinem animi, iustitiam, ad omnes denique virtutes [magnum hominem et excelsum]. accessit his doctrina non moderata nec mitis, sed, ut mihi videtur, paulo asperior et durior, quam veritas aut natura patitur. et quoniam non est nobis haec 61
oratio habenda apud imperitam multitudinem aut in aliquo

debeant quaerit et praecipit, hoc est, conformat. 'Give you some rule to fashion yourself by.'

inquit] 'says in the play.' A quotation from some old drama.

magister] Phoenix to Achilles. Quint VIII 6 §§ 29, 30 in speaking of *antonomasia, quae aliquid pro nomine ponit,* quotes this passage, adding *neutrum enim nomen est positum et utrumque intelligitur.*

peccas...regere] the quotation is wittily chosen, embodying some cant terms of the Stoics. *rectum* = κατόρθωμα, see on § 3. *peccatum* = ἁμάρτημα, see on § 62. With the passage in general compare II in Verrem III § 2 *qui sibi hoc sumpsit, ut corrigat mores aliorum ac peccata reprehendat.*

corrigendus] to require 'setting straight.' A strong word, compare de fin I § 17. [In Phil II § 43, pro Balbo § 20, Hor Epp I 15 37, *corrector* is particularly invidious.]

inflectendus] a much milder word. Zumpt well compares de divin I § 30, *leviter a summo inflexum bacillum,* 'with a slight bend.'

finxit] so de orat II § 219 *natura enim fingit homines et creat imitatores.*

ad] 'for,' 'with a view to,' moral worth etc. It goes with *magnum* etc, compare § 66. I see no reason for thinking *magnum hominem et excelsum* spurious.

doctrina] the teaching of a school. 'A set of tenets.' 'The creed of a sect.'

veritas] the 'realities of life.' Compare II in Verrem V § 172 *civium Romanorum omnium sanguis coniunctus existimandus est, quoniam et salutis omnium ratio et veritas postulat.*

aut] not *et*, as the comparison *durior...quam* has the force of a negative. Tischer. Compare § 78, where *quisquam* is used for the same reason. Halm.

natura] 'the feelings innate in us.' The passage in de fin IV § 55 should be compared with this, compare also § 65 below.

61 *apud imperitam multitudinem*] this is merely a flourish *ad benevolentiam captandam,* he says just the opposite in de fin IV § 74 *omnia peccata paria dicitis. non ego tecum* (addressed to Cato) *iam ita iocabor, ut isdem his de rebus, cum L Murenam te accusante defenderem: apud imperitos tum illa dicta sunt.* Plut Cat min 21 tells us that when Cicero delivered this volley of ridicule against the Stoics and in particular against their paradoxes, Cato smiled and said 'what a witty consul we have.' Cicero afterwards wrote his six papers called παράδοξα by way of commending the morality of the

conventu agrestium, audacius paulo de studiis humanitatis, quae et mihi et vobis nota et iucunda sunt, disputabo. in M Catone, iudices, haec bona, quae videmus divina et egregia, ipsius scitote esse propria: quae nonnumquam requirimus, ea sunt omnia non a natura, verum a magistro. fuit enim quidam summo ingenio vir, Zeno, cuius inventorum aemuli Stoici nominantur. huius sententiae sunt et praecepta huius modi: sapientem gratia numquam moveri, numquam cuiusquam delicto ignoscere; neminem misericordem esse nisi stultum et levem; viri non esse neque exorari neque placari; solos sa-

Stoics to his countrymen. For the phrase *imperita multitudo* see on § 39.

humanitatis] education, especially of a higher kind, 'cultivation,'= παιδεία. In Cicero's time it is often used thus, compare de orat I §§ 35, 71, II §§ 40, 72, pro Arch §§ 2, 3, etc; but Gellius XIII 17 (16) notices the disuse of this sense in his time and illustrates it from Varro. We have still the phrase 'professor of Humanity' in Scotland, and a school of *Litterae Humaniores* at Oxford. For *studiis* with genitive compare § 2.

requirimus] = *desideramus*, 'miss.' The use here is strange, and the true explanation is this. We miss compassion as an element in his character, i e we think him hard-hearted: but he is not so by nature, it is his master's teaching that has made him so. Halm paraphrases 'we would fain see otherwise.' Compare Quint XI I § 70.

Zeno of Kition in the isle of Cyprus, a Greek station with some admixture of Phoenician blood in the population. He taught at Athens during the 4th century B C in the frescoed Porch (ποικίλη στοά), from which his school as well as himself got the name of Στωϊκοί or οἱ ἀπὸ τῆς στοᾶς. He passed into a proverb, τοῦ φιλοσόφου Ζήνωνος ἐγκρατέστερος. He was succeeded by Kleanthes and Kleanthes by Chrysippus. See Ritter and Preller §§ 391—393.

inventorum] Zumpt compares de orat I § 84 *nisi qui philosophorum inventa didicisset.*

aemuli] 'students,' 'followers.' Compare pro Marcello § 2, de invent I § 43, Liv I 18, Tac H III 81. Probably an adaptation from Gk ζηλοῦν, ζηλωτής.

sententiae] 'positions,' 'dogmas.' *praecepta*, 'teaching.' He does not here deal with the fundamental principles of the Stoic school, but with their 'dark sayings,' τὰ παράδοξα καλούμενα δόγματα, Plut Cat min 21. Cicero renders παράδοξα by *admirabilia* in de fin IV § 74. The Greek of Diogenes Laertius will be compared in the case of the several positions. Diog Laert book VII.

sapientem] the ideal Stoic wise man, opposed to *stultus*, σοφός, σπουδαῖος)(ἄφρων, φαῦλος. See Zeller, c X.

sapientem...placari] ἐλεήμονάς τε μὴ εἶναι συγγνώμην τε ἔχειν μηδενί. Compare Tusc disp IV § 18.

viri] a true man. A man worth the name. Compare § 63.

solos...dicunt] μόνον τε (τὸν σοφὸν) ἐλεύθερον, τοὺς δὲ φαύλους δούλους. οὐ μόνον δὲ ἐλευθέρους εἶναι τοὺς σοφούς, ἀλλὰ καὶ βασιλέας, τῆς

pientes esse, si distortissimi sint, formosos, si mendicissimi,
divites, si servitutem serviant, reges: nos autem, qui sapientes
non sumus, fugitivos, exsules, hostes, insanos denique esse
dicunt: omnia peccata esse paria, omne delictum scelus esse
nefarium, nec minus delinquere eum, qui gallum gallinaceum,
cum opus non fuerit, quam eum, qui patrem suffocaverit:
sapientem nihil opinari, nullius rei paenitere, nulla in re falli,
sententiam mutare numquam. XXX. haec homo ingeniosissi- 62
mus, M Cato, auctoribus eruditissimis inductus arripuit, neque
disputandi causa, ut magna pars, sed ita vivendi. petunt

βασιλείας οὔσης ἀρχῆς ἀνυπευθύνου, ἥτις περὶ μόνους ἂν τοὺς σοφοὺς σταίη. Freund adds Lucian's words, μόνος οὗτος σοφός, μόνος καλός, μόνος δίκαιος, ἀνδρεῖος, βασιλεύς, ῥήτωρ, πλούσιος, νομοθέτης καὶ τἄλλα ὁπόσα ἐστίν. Compare Cic de fin IV § 74 *nam ex eisdem verborum praestigiis et regna nata vobis sunt et imperia et divitiae, et tantae quidem, ut omnia quae ubique sint sapientis esse dicatis. solum praeterea formosum, solum liberum, solum civem; stultos omnia contraria, quos etiam insanos esse vultis,* Acad II §§ 136, 144. The titles of the Paradoxa, 5 ὅτι μόνος ὁ σοφὸς ἐλεύθερος, 6 ὅτι μόνος ὁ σοφὸς πλούσιος, 4 ὅτι πᾶς ἄφρων μαίνεται, shew how Cicero coquetted with Stoicism. [See also the banter of Horace Epp I 1 106—108, Sat I 3 124—142, II 3 40--46.]

servitutem serviant] compare Gellius II 18 § 9 *Diogenes etiam Cynicus servitutem servivit,* the phrase is archaic, says Quint VII 3 § 26. See Prof Mayor's note on Cic Phil II § 42 *dicta dicere.*

omnia...suffocaverit] ἀρέσκει τε αὐτοῖς ἴσα ἡγεῖσθαι τὰ ἁμαρτήματα· ...εἰ γὰρ ἀληθὲς ἀληθοῦς μᾶλλον οὐκ ἔστιν, οὐδὲ ψεῦδος ψεύδους, οὕτως οὐδὲ ἀπάτη ἀπάτης, οὐδὲ ἁμάρτημα ἁμαρτήματος. Compare de fin IV § 74, Parad 3 ὅτι ἴσα τὰ ἁμαρτήματα καὶ τὰ κατορθώματα. Hor Sat I 3 76—124.

opinari] emphatic. Never 'fancies' or 'supposes' anything. ἔτι τε μὴ δοξάσειν τὸν σοφόν· τουτέστι ψευδεῖ μὴ συγκαταθήσεσθαι μηδενί. He alone possesses true knowledge. See on *opinione* §§ 62, 78.

XXX 62 *auctoribus*] the ablative of the means, as the person stands for the thing implied, here for the *auctoritas* of his teachers. Madvig § 254, obs 3. Compare pro Mil § 47 *iacent suis testibus = his testimoniis* just above, Ar Rhet I 15 § 21 ὁποῖοι γὰρ ἄν τινες ὦσιν οἱ ἐπιγεγραμμένοι ἢ φυλάττοντες, τούτοις αἱ συνθῆκαι πισταί εἰσιν.

arripuit] eagerly caught up, i e he was over-hasty. Compare § 13, Cat maior § 26, Corn Nepos Cato iii 2. So *inductus* with glance at sense of 'misled,' 'taken in.'

disputandi] 'theorizing.' *vivendi,* for a rule of life.

ut magna pars] so of Helvidius Priscus Tac H IV 5 says *ingenium illustre altioribus studiis iuvenis admodum dedit non ut plerique, (quo) nomine magnifico segne otium velaret, sed quo firmior adversus fortuita rem publicam capesseret.* For *magna pars* compare Hor S I 6 90.

petunt etc] here a number of cases are put, in which the Stoic rules break down. The conversa-

aliquid publicani: 'cave quidquam habeat momenti gratia.' supplices aliqui veniunt miseri et calamitosi: 'sceleratus et nefarius fueris, si quidquam misericordia adductus feceris.' fatetur aliquis se peccasse et eius delicti veniam petit: 'nefarium est facinus ignoscere.' at leve delictum est: 'omnia peccata sunt paria.' dixisti: 'quippe, iam fixum et statutum est.' non re ductus es, sed opinione: 'sapiens nihil opinatur.' errasti aliqua in re: maledici putat. hac ex disciplina nobis illa sunt: 'dixi in senatu me nomen consularis candidati delaturum.' iratus dixisti. 'numquam' inquit 'sapiens irascitur.' at temporis causa. 'improbi' inquit 'hominis est mendacio fallere, mutare sententiam turpe est, exorari scelus, mise-
63 reri flagitium.' nostri autem illi—fatebor enim, Cato, me quoque in adulescentia diffisum ingenio meo quaesisse adiumenta doctrinae—, nostri, inquam, illi a Platone et Aristotele,

tional form of parallel sentences is employed to throw into stronger relief the inapplicability of each dogma. Compare Madvig § 442 a, obs 2. The reply in each case is delivered in the character of Cato.

publicani] when they had tendered too high a price for the revenues, they sometimes petitioned the senate for a *remissio mercedum* or *ut induceretur locatio.* A case occurred in B C 61, and Cato acted just as Cicero describes here. Compare de off III § 88, ad Att I 17 § 9, 18 § 7, Suet Jul 20.

supplices] 'in suppliant guise,' for *aliqui* (adj) goes with *miseri et calamitosi* (subst). Halm. Some provincials are probably meant. See div in Caecil §§ 11, 14, 17.

miseri et calamitosi] wretched and ruined men. For the words see § 50.

at] 'why,' you urge, 'it is but a slight short-coming.'

dixisti etc] see Appendix C. I have ventured to restore the reading of the MSS.

opinione] see notes on §§ 61, 78, and compare Acad II § 66.

nobis] dat ethicus. Compare §§ 13, 21, 74. 'It is to this Stoic training that we owe such arguments as.' *dixi*, I said, and *fixum et statutum est.*

temporis causa] either *dixisti*, 'you said it to serve the turn of the moment,' or with Halm *ne nomen detuleris*, 'do not do it just now, at such a crisis.'

63 *nostri illi*] i e *magistri.* Cicero's teachers, particularly Antiochus of Askalon, a free adherent of the New Academy.

diffisum] not *diffidentem.* Compare Madvig § 431 b.

adiumenta] the support that education gives. *doctrinae*, very like the *studia humanitatis* of § 61 in sense. For genitive see on §§ 1, 56, and for *adiumenta* see note on § 62 *ut magna pars.*

a Platone] imitating the Gk οἱ ἀπὸ Πλάτωνος etc, usually with *esse*, as de fin IV § 7 *Zeno et ab eo qui sunt.* Tischer.

moderati homines et temperati, aiunt apud sapientem valere aliquando gratiam: viri boni esse misereri, distincta genera esse delictorum et dispares poenas, esse apud hominem constantem ignoscendi locum, ipsum sapientem saepe aliquid opinari [quod nesciat], irasci nonnumquam, exorari eundem et placari, quod dixerit interdum, si ita rectius sit, mutare, de sententia decedere aliquando: omnes virtutes mediocritate quadam esse moderatas. XXXI. hos ad magistros si qua te **64**
fortuna, Cato, cum ista natura detulisset, non tu quidem vir melior esses nec fortior nec temperatior nec iustior—neque enim esse potes—, sed paulo ad lenitatem propensior. non accusares nullis adductus inimicitiis, nulla lacessitus iniuria, pudentissimum hominem, summa dignitate atque honestate praeditum; putares, cum in eiusdem anni custodia te atque L Murenam fortuna posuisset, aliquo te cum hoc rei publicae vinculo esse coniunctum: quod atrociter in senatu dixisti, aut non dixisses aut seposuisses aut mitiorem in partem interpreta-

Plato founder of the Academic school, *Aristotle* of the Peripatetic.

moderati et temperati] of no violent or extreme views.

et] and hence there is a corresponding difference in [the appropriate] punishments.

quod nesciat] = *quod non certum sciat.* Tischer well compares the equally remarkable ad Att XII 23 § 2 *de Oropo opinor sed certum nescio.* Halm is inclined to look upon the words as a gloss.

mediocritate] Plato's μετριότης, Aristotle's μεσότης. Compare Ar Eth II 6 § 13 μεσότης τις ἄρα ἐστὶν ἡ ἀρετή, στοχαστική γε οὖσα τοῦ μέσου, e g true bravery is the mean, rashness and cowardice being the extremes between which it lies. Also Cic de off I § 89.

quadam] as often, apologetic. Here he has just used *mediocritas* in a restricted sense as a translation of μεσότης. So *ut ita dicam.* Compare de fin II § 11.

moderatas] are ruled, tempered. *esse*, 'are seen to be,' i e by the eye of the Philosopher.

XXXI 64 *detulisset*] compare de off I § 47 *maior enim pars eo fere deferri solet quo a natura ipsa deducitur*, Hor Epp I I 14—15 *nullius addictus iurare in verba magistri quo me cumque rapit tempestas deferor hospes.*

natura] see on § 79, and for *ista* compare § 78 *isto animo.*

tu quidem] compare Madvig § 489 b.

temperatior] more self-controlled, σωφρονέστερος.

inimicitiis] compare § 56, II in Verrem III § 1.

pudentissimum] so in § 30 *pudor* = 'sense of honour.'

honestate] see on § 87.

custodia] as tribune. Compare § 58.

rei publicae] for genitive see on § 1.

seposuisses] would have set it aside.

65 rere. ac te ipsum, quantum ego opinione auguror, nunc et animi quodam impetu concitatum et vi naturae atque ingenii elatum et recentibus praeceptorum studiis flagrantem iam usus flectet, dies leniet, aetas mitigabit. etenim isti ipsi mihi videntur vestri praeceptores et virtutis magistri fines ófficiorum paulo longius, quam natura vellet, protulisse, ut, cum ad ultimum animo contendissemus, ibi tamen, ubi oporteret, consisteremus. 'nihil ignoveris:' immo aliquid, non omnia. 'nihil omnino gratiae concesseris'—immo resistito gratiae, cum officium et fides postulabit. 'misericordia commotus ne sis:' etiam, in dissolvenda

Compare Ovid met III 318, where Jove is said *curas seposuisse graves.*

65 *auguror*] so de orat I § 95 *quantum auguror coniectura.*

impetu] 'rush.' Alluding to his hastiness, compare § 62. Sorof has rightly seen that *animi impetu* refers to his youth, *vi naturae atque ingenii* to his peculiar temperament. Compare *ista natura* in § 64.

concitatum] 'roused,' 'over-excited.' Compare pro Flacco § 17 *non concitatae contionis, sed iurati senatus.* It implies a state of semi-insanity in some passages. With de divin II § 27 *concitatione mentis edi et quasi fundi videbatur* compare Macbeth II 1 39 'proceeding from the heat-oppressed brain.'

flagrantem] compare Cato maior § 50 *his studiis flagrantes.—recentibus.* Cato was now 32.

iam] 'presently.' Compare pro Caelio § 77 *iam ista deferbuerint, iam aetas omnia, iam dies mitigarit.*

isti ipsi] i e your very teachers need teaching. The sense of the passage is, 'they have set up an ideal beyond the reach of human frailty, and not without a reason: we must fall short of it, but then, if we aim high and fail, we still may do our duty.' Compare George Herbert, *The Church Porch*, 'Pitch thy behaviour low, thy projects high; So shalt thou humble and magnanimous be: Sink not in spirit; who aimeth at the sky Shoots higher much than he that means a tree.'

fines] 'boundaries,' 'limits.' Compare de fin III § 26 *licebit etiam finem pro extremo aut ultimo dicere.*

natura] compare § 60 *quam veritas aut natura patitur.*

ad ultimum] to the furthest limit, i e to the highest perfection.

ignoveris] Madvig § 386. Here Cicero puts limitations to some of the extreme doctrines noticed above.

gratiae concesseris] so I prefer to read with Zumpt, as making better sense in the mouth of a Stoic than *gratiae causa feceris*, which is Halm's correction. The MSS give *gratie confeceris* with slight variations. In the following I keep the MSS *resistito gratiae* with Halm. Zumpt reads *insistito* and throws out *gratiae*, following Lag 9 only.

resistito] the strong imperatives are here used with mock-solemnity, like a statute. Compare Hor Sat II 1 8, 9.

fides] 'honesty,' as in § 30.

etiam] a strong affirmative. Compare Acad II § 104 *aut 'etiam' aut 'non' respondere possit*, de nat deor I § 70 *in omnibus diiunctionibus in quibus 'aut etiam aut non' poneretur*, pro Rosc com § 9 *si non..., si etiam*, Plin Epp VI 2 § 8 *at quaedam supervacua dicuntur. etiam, sed*

severitate; sed tamen est laus aliqua humanitatis. 'in sententia permaneto:' vero, nisi sententiam sententia alia vicerit melior. huiusce modi Scipio ille fuit, quem non paenite- 66 bat facere idem, quod tu, habere eruditissimum hominem Panaetium domi, cuius oratione et praeceptis, quamquam erant eadem ista, quae te delectant, tamen asperior non est factus, sed, ut accepi a senibus, lenissimus. quis vero C Laelio comior? quis iucundior, eodem ex studio isto? quis illo gravior, sapientior? possum de L Philo, de C Gallo dicere haec eadem, sed te domum iam deducam tuam. quem-

satius est et haec dici quam non dici necessaria.

dissolvenda] 'relaxing.' Compare de off III § 113 *fraus astringit, non dissolvit periurium.*

severitate] Zumpt compares de off I § 88 *et tamen ita probanda est mansuetudo atque clementia, ut adhibeatur reipublicae causa severitas, sine qua administrari civitas non potest.* The word = 'strictness,' 'firmness.'

humanitatis] here 'feelings,' almost 'sympathy.'

vero] a strong affirmative, compare Tusc disp II § 26 *vero ac libenter quidem*, Plaut mil glor 830. In § 45 it was used to add force in the last member of a climax.

melior] purposely put at the end like an after-thought, as Freund well remarks.

66 *Scipio*] the younger Africanus, § 58. He was murdered in 129 BC, pro Mil § 16.—*non paenitebat = delectabat.*

quod tu] Cato had with great difficulty induced the aged Stoic Athenodorus Kordylion to come with him from Pergamus to Rome and dwell in his house, Plut Cat min 10, 16, compare also 4.

Panaetium] a famous Stoic from Rhodes. His intimacy with Scipio and Laelius is often mentioned by Cicero, e g de fin IV § 23, de republ I § 24. Also by Velleius I 13 § 3. His work περὶ καθήκοντος was followed by Cicero in the de officiis.

accepi] Cicero was born in BC 106. The word in Cicero implies tradition, as Sorof well remarks.

lenissimus] sc *erat*, which has perhaps dropped out. Cicero cannot mean that Stoicism rendered him very gentle; rather, in spite of his Stoic training, he retained his gentleness. Halm. This I doubt. We know that Panaetius modified the harsh doctrines of the Stoics to a considerable extent, de fin IV § 79, and thus caused them to spread widely and take deep root at Rome.

C Laelio] praetor BC 145, consul 140. He had the nickname *Sapiens*, was the bosom friend of the younger Scipio Africanus, Hor Sat II 1 72 *virtus Scipiadae et mitis sapientia Laeli*, and is taken by Cicero as a typical 'crony' to form the chief character in the dialogue on Friendship which bears his name. He did much to introduce Greek learning into Rome and was intimate with the Stoics Panaetius and Diogenes of Babylon. With this passage generally compare de orat II § 154, de republ III § 5.

eodem ex studio] so § 75. 'Yet of the same school.'

L Furius Philus] consul BC 136.

C Sulp Gallus] consul BC 166.

quamne existimas Catone proavo tuo commodiorem, communiorem, moderatiorem fuisse ad omnem rationem humanitatis? de cuius praestanti virtute cum vere graviterque diceres, domesticum te habere dixisti exemplum ad imitandum. est illud quidem exemplum tibi propositum domi, sed tamen naturae similitudo illius ad te magis, qui ab illo ortus es, quam ad unum quemque nostrum pervenire potuit, ad imitandum vero tam mihi propositum exemplar illud est quam tibi. sed si illius comitatem et facilitatem tuae gravitati severitatique asperseris, non ista quidem erunt meliora, quae nunc sunt optima, sed certe condita iucundius.

67 XXXII. quare ut ad id, quod institui, revertar, tolle mihi e causa nomen Catonis, remove auctoritatem, quae in iudiciis aut nihil valere aut ad salutem debet valere: congredere me-

communiorem] 'more sociable.' Compare Laelius § 65. Zumpt from MS Lag 9 *comiorem*, compare pro Balbo § 36.

humanitatis] in every relation of social life. The word expresses those small every-day allowances that men make for one another, without which society could not hold together. 'Courteousness,' though too definite here, will stand for it in de leg III § 1 *cuius et vita et oratio consecuta mihi videtur difficillimam illam societatem gravitatis cum humanitate.*

exemplum] so Isocr ad Demon § 9 οὐ μὴν ἀλλὰ καὶ τὰς τοῦ πατρὸς προαιρέσεις ἀναμνησθεὶς οἰκεῖον καὶ καλὸν ἕξεις παράδειγμα τῶν ὑπ' ἐμοῦ σοι λεγομένων, and Mr Sandys' note.

est quidem......sed tamen] Cicero begins with the intention of saying 'You have a pattern in him, but so have I, so has any other man.' But *sed tamen* turns the thought into 'It is rather likeness of temperament which you inherit from him, than any prior claim to the imitation of his life.' And as *magis quam* expresses the comparison between Cato and other men in the former part of the sentence, *vero* is used to introduce the contrast in the latter. So in § 67 *ambitum vero ipsum* etc.

naturae similitudo] = one word. 'Likeness of character.' *illius.* to him, i e his character. Compare *huius periculi propulsatio*, = from him, pro Sull § 2.

asperseris] metaphor from cookery. Compare orator § 87 *huic generi orationis aspergentur etiam sales*, pro Cluent § 71 *Guttam aspergit huic Bulbo.*

ista] your peculiarities. *quidem.* Madvig § 489 b.

condita] so Cato maior § 10 *comitate condita gravitas.* 'Seasoned.'

xxxii 67 *nomen Catonis*] 'the name Cato.' Compare § 23 and Phil VIII § 2 *belli nomen.* Madvig § 286.

mihi] dat ethicus, compare §§ 13, 21, etc.

congredere] of fighting. Have it out with plain charges, i e with the several counts of the accusation. For *crimina* compare div in Caecil § 38 *criminibus et oratione distinguere.*

cum criminibus ipsis. quid accusas, Cato? quid adfers ad iudicium? quid arguis? ambitum accusas: non defendo. me reprehendis, quod idem defendam, qui lege punierim: punivi ambitum, non innocentiam, ambitum vero ipsum vel tecum accusabo, si voles. dixisti senatus consultum me referente esse factum: s i m e r c e d e o b v i a m c a n d i d a t i s i s s e n t, s i c o n d u c t i s e c t a r e n t u r, s i g l a d i a t o r i b u s l o c u s t r i b u t i m, i t e m p r a n d i a s i v u l g o e s s e n t d a t a, c o n t r a l e g e m C a l p u r n i a m f a c t u m v i d e r i. ergo ita senatus nisi iudicat, contra legem facta haec videri, si facta sint, decernit quod nihil opus est, dum candidatis morem gerit; nam factum sit necne, vehementer quaeritur: si factum sit, quin contra legem sit, dubitare nemo potest. est igitur ridiculum, quod est 68
dubium, id relinquere incertum: quod nemini dubium potest esse, id indicare. atque id decernitur omnibus postulantibus candidatis, ut ex senatus consulto neque cuius intersit neque contra quem sit intellegi possit. quare doce, a L Murena illa esse commissa; tum egomet tibi contra legem commissa esse concedam.

senatus consultum] the sequel of which was the *lex Tullia*. See on §§ 46, 47.

gladiatoribus] at the gladiatorial shows. Compare Phil IX § 16 (*Ser Sulpicio statuam statui*) *circumque eam statuam locum ludis gladiatoribusque liberos posterosque eius quoquo versus pedes quinque habere.* Madvig § 276, obs 2.

locus] sc *esset datus*, supplied from foll.

vulgo] compare § 73.

Calpurniam] see on § 46.

nisi] so Zumpt from MS Lag 9, and this reading alone seems to me to convey sense. Either (*a*) they decide that certain practices are to be held illegal, or (*b*) its resolution is purposely void of meaning, a piece of weak concession to the wealthy class (chiefly senators, see on § 47) who stand for office. Halm reads *candidatus*, which to me seems weak. See also § 47 *concessit postulationi tuae.* The same editor reads *si* instead of *nisi*: the passage is mutilated in the MSS.

si factum sit] the subj hints that the charge against Murena is not true. Zumpt. See Madvig § 347, and compare § 68 *si non possim.*

68 *indicare*] 'make known,' 'publish.' Zumpt's simple correction of MSS *iudicare.* Compare Timaeus c ii *invenire difficile et, quum iam inveneris, indicare in vulgus nefas.*

omnibus] and hence, by simply quoting it, there is no presumption raised that Murena did any of those things.

doce......tum concedam] so de imp Cn Pomp § 38 *recordamini.........tum statuetis.* Compare *doce...... concedam* in § 70.

XXXIII. 'multi obviam prodierunt de provincia decedenti. eccui autem non proditur revertenti? 'quae fuit ista multitudo?' primum, si tibi istam rationem non possim reddere, quid habet admirationis, tali viro advenienti, candidato consulari, obviam prodisse multos? quod nisi esset factum, magis
69 mirandum videretur. quid? si etiam illud addam, quod a consuetudine non abhorret, rogatos esse multos, num aut criminosum est aut mirandum, qua in civitate rogati infimorum hominum filios prope de nocte ex ultima saepe urbe deductum venire soleamus, in ea non esse gravatos homines prodire hora tertia in campum Martium, praesertim talis viri nomine rogatos? quid? si omnes societates venerunt, quarum ex numero multi sedent iudices? quid? si multi homines nostri ordinis honestissimi? quid? si illa officiosissima, quae neminem patitur non honeste in urbem introire, tota natio candidatorum? si denique ipse accusator noster Postumus obviam cum bene magna caterva sua venit, quid habet ista multitudo admira-

xxxiii. *decedenti.........revertenti*] 'when he quitted his province'...... 'when he came back to Rome.' In these cases the present (or imperf) participle seems to lose its force. Compare pro Planc § 65 *cum decedens e provincia* (Sicily) *Puteolos forte venissem*, Tac Agr 9 *revertentem*, 18 *ingredienti*, Ann II 69 *remeans*. The reason, no doubt, is that Rome was regarded as the centre of the world, as we say, the 'metropolis.' At this time, and for more than a year afterwards (till the *lex Iulia* of BC 61), the provincial governors rendered account of their administration at Rome. Thus a man would, strictly speaking, be *decedens* or *revertens* until he had rendered account.

istam rationem] = *istius rei rationem*. Compare Madvig § 314.

habet] 'involves,' 'causes.' Compare §§ 12, 69, 87, 89.

69 *deductum*] sc *in forum*, as was the custom when youths first put on the *toga virilis*. This visit was called *tirocinium fori*, and was performed at early morning (*prope de nocte*).

prodire] to go out of the city to meet him beyond the walls in the *campus Martius*, which seems to have been the ordinary place for meeting a friend *revertentem*.—*nomine*. Compare § 82.

societates] the companies of revenue farmers (*publicani*) who belonged to the equestrian order. At this time two of the three panels (*decuriae*) of jurors were composed of *equites*. See Appendix B.

natio] Zumpt compares in Pis § 55 *ne de officiosissima quidem natione candidatorum*. The word is depreciatory, compare pro Sest §§ 96, 97, de nat deor II § 74. Add Phaedrus II 5 *est ardelionum quaedam Romae natio*.

bene magna] as we say, 'a good

tionis? omitto clientes, vicinos, tribules, exercitum totum Luculli, qui ad triumphum per eos dies venerat: hoc dico, frequentiam in isto officio gratuitam non modo dignitati ullius umquam, sed ne voluptati quidem defuisse. 'at sectabantur 70
multi.' doce mercede: concedam esse crimen. hoc quidem remoto, quid reprehendis? 'quid opus est,' inquit, 'sectatoribus?' XXXIV. a me tu id quaeris, quid opus sit eo, quo semper usi sumus? homines tenues unum habent in nostrum ordinem aut promerendi aut referendi beneficii locum, hanc in nostris petitionibus operam atque adsectationem. neque enim fieri potest neque postulandum est a nobis aut ab equitibus Romanis, ut suos necessarios candidatos adsectentur totos dies, a quibus si domus nostra celebratur, si interdum ad forum deducimur, si uno basilicae spatio honestamur, diligenter observari videmur et coli: tenuiorum amicorum et non occupatorum est ista assiduitas, quorum copia bonis viris et beneficis deesse non solet. noli igitur eripere hunc inferiori generi hominum fruc- 71
tum officii, Cato: sine eos, qui omnia a nobis sperant, habere ipsos quoque aliquid, quod nobis tribuere possint. si nihil erit praeter ipsorum suffragium, tenue est, si, ut suffragentur,

large' throng. Compare de orat II § 361 *sermonem bene longum hominis.*

exercitum] compare § 37.

hoc dico] 'but this much I will say.' *non modo.* 'I do not say to enhance a man's personal credit, but simply to give him satisfaction.' Compare de imp Cn Pomp § 66.

gratuitam] voluntary, opposed to *mercede.*

70 *at*] the second clause is now dealt with. Compare § 67. *sectabantur.* i e during the canvass.

XXXIV *nobis*] 'us senators.'

candidatos] when they have on their *toga candida*, i e are openly engaged in canvassing.

a quibus si......] so auct petit cons § 34 gives the three kinds of *adsectatio*, viz *salutatorum*, *deductorum*, *adsectatorum.*

spatio] with a single turn in a public hall. The *basilicae* were used (a) as courts of justice, (b) as promenades.

71 *fructum*] the enjoyment or profit which their service brings, namely the games, banquets etc provided for them by the holders of offices. For the genitive see on § 1. In § 77 we have a different construction and hence a different shade of meaning.

si, ut suffragentur] sc *erit*, to be supplied from above. 'If it is to be their support in canvassing—why, their influence is nothing.' We find *suffragari* continually used in this sense. de off I § 138 *domus suffragata domino*, pro Planc § 1, etc, but the best instance is auct petit cons § 28 *in eo quem homines*

nihil valent gratia. ipsi denique ut solent loqui non dicere pro nobis, non spondere, non vocare domum suam possunt. atque haec a nobis petunt omnia neque ulla re alia, quae a nobis consequuntur, nisi opera sua compensari putant posse. itaque et legi Fabiae, quae est de numero sectatorum, et senatus consulto, quod est L Caesare consule factum, restiterunt; nulla est enim poena, quae possit observantiam tenui-
72 orum ab hoc vetere instituto officiorum excludere. 'at spectacula sunt tributim data et ad prandium vulgo vocati.' etsi hoc factum a Murena omnino, iudices, non est, ab eius amicis autem more et modo factum est, tamen admonitus re ipsa recordor, quantum hae conquestiones in senatu habitae punctorum nobis, Servi, detraxerint. quod enim tempus fuit aut nostra aut patrum nostrorum memoria, quo haec, sive ambitio est sive liberalitas, non fuerit, ut locus et in circo et in foro

ignoti, nullis suffragantibus, honore adficiant, i e without the intervention of *suffragatores*. Compare §§ 16, 44. Sorof takes *si*=*si quidem* and *ut* either concessively or after *valent* (he is not clear on this point); he denies also that *erit* can be supplied. But I still think the above explanation best, and Zumpt agrees with it.

spondere] become security for us. pro Planc § 47 *quod multis benigne fecerit, pro multis spoponderit.*

legi Fabiae] nothing more is known about this. Probably it was passed about BC 66 or 65 as a supplement to the *lex Calpurnia*. Zumpt.

L Caesare consule] BC 64. The definition of the time by the name of *one* consul only is strange but compare de prov cons § 45 *Iulias leges et ceteras illo consule rogatas*. Probably only the consul who presided at the debate is mentioned. Halm. Nothing is known of the matter.

restiterunt] paid no attention to it, made it a dead letter.

72 *spectacula*] seats for seeing the games from. Compare pro Sest § 124, Liv I 35 *ubi spectacula sibi quisque facerent......spectavere furcis spectacula alta sustinentibus*, XLV 1, Ovid met X 668 *resonant spectacula plausu.*

etsi......tamen] though this is really not to the point, yet the mention of it serves to remind me that......

more et modo] so *nihil more, nihil modo*, in pro Scauro § 37. Tischer.

hae conquestiones] 'complaints of this sort.' See on § 7.

punctorum] = *suffragiorum*. Compare pro Planc § 53, Hor A P 343.

nobis] 'us'=our side. Compare § 20 *nostrum*. Cicero had supported Servius; see § 7.

ambitio] lawful *adfectatio honoris*, opposed to *ambitus*, unlawful. Compare pro Planc § 45 *cum ambitionis nostrae tempora postulabant.*

liberalitas] compare § 77.

in foro] where the gladiators were exhibited, before the days of amphitheatres. See Liv XXIII 30, XXXI 50 etc.

daretur amicis et tribulibus? haec homines tenuiores a suis tribulibus vetere instituto adsequebantur.

XXXV...praefectum fabrum semel locum tribulibus suis de- 73
disse: quid statuent in viros primarios, qui in circo totas tabernas tribulium causa compararunt? haec omnia sectatorum, spectaculorum, prandiorum crimina a multitudine in tuam nimiam diligentiam, Servi, coniecta sunt, in quibus tamen Murena senatus auctoritate defenditur. quid enim? senatus num obviam prodire crimen putat? 'non, sed mercede:' convince. num sectari multos? 'non, sed conductos:' doce. num locum ad spectandum dare aut ad prandium invitare? 'minime, sed vulgo.' quid est vulgo? 'universos.' non igitur, si L Natta, summo loco adulescens, qui et quo animo iam sit et qualis vir futurus sit videmus, in equitum

tribulibus] the fellow-tribesmen of the candidates. But the charge brought against Murena was *spectacula tributim data*, i e to whole tribes at a time. Halm.

adsequebantur] here there is a lacuna in the MSS.

XXXV 73 Mommsen supplies sense thus [*quodsi criminosum videtur amicum quendam Murenae*,] *praefectum*......Halm.

praefectum fabrum] an officer of engineers who had probably served under Murena in Asia. See Caes bell civ I 24 *N Magius Cremona praefectus fabrum Cn Pompeii*, Velleius II 76 § 1.

tabernas] either 'boxes,' i e booths with seats (Halm) or 'blocks of seats,' i e strictly the entrance-arcades which gave access to the several blocks (Zumpt), compare Tac Ann XV 38, Dionys Hal III 68.

compararunt] have 'taken,' as we say, i e hired.

diligentiam] compare pro Ligar § 1 *quoniam diligentia inimici investigatum est quod latebat*.

coniecta] flung upon, 'laid to the door of your over-activity in hunting up charges against your rivals.' Compare II in Verrem II § 18 *o praeclare coniectum a vulgo in illam provinciam omen communis famae atque sermonis*, pro Planc § 31 *coniecta maledicta in eius vitam*.

in quibus tamen......] the sense is '(and though your activity was so great, it was futile) for Murena has the resolution of the Senate to back him.'

auctoritate] the 'expressed will' of the Senate=*consultum*, as in de leg II § 37 *senatus vetus auctoritas de Bacchanalibus*, ad fam I 2 § 4 *de his rebus senatus auctoritas gravissima intercessit*. Compare above § 67.

num locum...dare] Campe suspects that the answer to this (*non, sed tributim*. Compare § 67) has dropped out. Halm.

universos] this question and answer is quoted by Quint VII 3 § 16.

L Pinarius Natta] as pontiff in BC 58 he joined in the destruction of Cicero's house. See de domo sua § 118.

centuriis voluit esse et ad hoc officium necessitudinis et ad reliquum tempus gratiosus, id erit eius vitrico fraudi aut crimini, nec, si virgo Vestalis, huius propinqua et necessaria, locum suum gladiatorium concessit huic, non et illa pie fecit et hic a culpa est remotus. omnia haec sunt officia necessariorum, commoda tenuiorum, munia candidatorum.

74 at enim agit mecum austere et stoice Cato: negat verum esse adlici benevolentiam cibo, negat iudicium hominum in magistratibus mandandis corrumpi voluptatibus oportere. ergo, ad cenam petitionis causa si quis vocat, condemnetur? 'quippe' inquit; 'tu mihi summum imperium, tu summam auctoritatem, tu gubernacula rei publicae petas fovendis hominum sensibus et deleniendis animis et adhibendis voluptatibus? utrum lenocinium, inquit, a grege delicatae iuventutis an orbis terrarum imperium a populo Romano petebas?' horribilis

centuriis] there were 18 of *equites*.

necessitudinis] the service which his close connexion demanded. Compare div in Caec § 14, pro Planc § 25, pro Sest § 10 *officium vicinitatis*. For genitive see on § 1.

ad reliquum tempus] sc *petitionis Murenae*. Zumpt, which seems nonsense, but it is hard to see what it does mean. Perhaps simply 'for the future,' i e with an eye to needing their support one day himself. Compare div in Caecil § 71 *qui neque uti reliqui temporis spem confirmet laborat*.

propinqua] perhaps a *Licinia*. Halm.

gladiatorium] compare pro Sest § 124 *consessu gladiatorio*. Zumpt, who thinks that the places were those kept for all the six Vestals. The conjecture *gladiatoribus* is unnecessary. Add pro Sest § 115. [See Suet Aug 44 *feminis ne gladiatores quidem, quos promiscue spectari sollemne olim erat, nisi ex superiore loco spectare concessit. solis virginibus Vestalibus locum in theatro, separatim et contra praetoris tribunal, dedit.*]

munia] 'services,' 'functions,' a rare word in Cicero, but found pro Sest § 138. Halm.

74 *verum*] 'right,' 'fair,' as often. Compare Tusc disp III § 73, Virg Aen XII 694, Hor Epp I 7 98.

quippe] in answers = 'what then?' i e 'certainly,' 'to be sure.' Compare pro Caec § 55, de fin V § 84, IV § 7. Festus p 257 says that it = *quidni*. See Appendix C.

tu......tu] for the ἀναφορὰ compare Tusc disp V § 5.

mihi] dat ethicus. Compare § 13.

petas] 'are you to be allowed to seek?'......Madvig § 353 quotes Ter Hec IV 2 13 *ex urbe rus tu habitatum migres?*

delicatae] compare ad Att I 19 § 8 *libidinosae et delicatae iuventutis*.

horribilis] 'awful,' with sarcastic horror. Compare Catull XIV 12 *di magni, horribilem et sacrum libellum*.

oratio, sed eam usus, vita, mores, civitas ipsa respuit. neque
tamen Lacedaemonii, auctores istius vitae atque orationis, qui
cotidianis epulis in robore accumbunt, neque vero Cretes,
quorum nemo gustavit umquam cubans, melius quam Romani
homines, qui tempora voluptatis laborisque dispertiunt, res
publicas suas retinuerunt: quorum alteri uno adventu nostri
exercitus deleti sunt, alteri nostri imperii praesidio disciplinam
suam legesque conservant. XXXVI. quare noli, Cato, maiorum 75
instituta, quae res ipsa, quae diuturnitas imperii comprobat,
nimium severa oratione reprehendere. fuit eodem ex studio
vir eruditus apud patres nostros et honestus homo et nobilis,
Q Tubero. is, cum epulum Q Maximus P Africani patruii
sui nomine populo Romano daret, rogatus est a Maximo, ut
triclinium sterneret, cum esset Tubero eiusdem Africani sororis
filius. atque ille, homo eruditissimus ac Stoicus, stravit pelli-

civitas] the spirit of our institutions. See on § 77.

tamen] the MSS authority is decidedly in favour of this reading, and I have therefore restored it. Halm looks upon it as introducing a limiting remark referring to the whole discussion. Zumpt reads *enim* with Lag 9 only.

cotidianis] the *συσσίτια* or *φιδίτια*. The Cretan messes were called *ἄνδρια*.

in robore] on hard oaken benches, *ἐπὶ τοῦ κλιντηρίου ψιλοῦ*. Athen 142 a.

cubans] leaning on the elbow or a cushion. They ate *καθήμενοι*.

alteri] the proconsul Q Caecil Metellus (hence called *Creticus*) subdued the Cretans, BC 68—67.

alteri] since the break-up of the Achaean League and the destruc- of Corinth (BC 146), the Spartans had been protected dependants of Rome.

XXXVI 75 *eodem ex studio*] so in § 66.

Q Aelius Tubero] a grandson of L Aemilius Paullus. Q Fabius Maximus Allobrogicus was a grandson, and this Scipio (compare on § 58) a son of the same, adopted by a son of Scipio Africanus the elder. Tubero was a noted Stoic, compare Brutus § 117, de orat III § 87. Also a learned jurist, compare Gellius I 22 § 7. Scipio was found dead in his bed, not without some suspicion of foul play, BC 129. Compare pro Mil § 16, Mommsen, bk IV c 3.

epulum] a funeral banquet. The word is generally used of solemn public entertainments only; hence in the sense of 'banquet' § 76 we have *epulae*.

nomine] 'in honour of.' This use is very nearly the same as that in §§ 69, 82.

triclinium] a table with a set of three couches. See Rich, dict ant.

sterneret] implies not merely the providing of rugs, etc for the couches, but also the fitting out of the dining-tables. Halm.

ac Stoicus] ironically thrown in, as if it were a step higher than *homo eruditissimus*. 'And a Stoic to boot.' So § 74 *austere et stoice*.

pelliculis] 'with shabby goat-

culis haedinis lectulos Punicanos et exposuit vasa Samia, quasi vero esset Diogenes Cynicus mortuus et non divini hominis Africani mors honestaretur: quem cum supremo eius die Maximus laudaret, gratias egit dis immortalibus, quod ille vir in hac re publica potissimum natus esset; necesse enim fuisse, ibi esse terrarum imperium, ubi ille esset. huius in morte celebranda graviter tulit populus Romanus hanc perversam
76 sapientiam Tuberonis. itaque homo integerrimus, civis optimus, cum esset L Pauli nepos, P Africani, ut dixi, sororis filius, his haedinis pelliculis praetura deiectus est. odit populus Romanus privatam luxuriam, publicam magnificentiam diligit; non amat profusas epulas, sordes et inhumanitatem multo minus. distinguit rationem officiorum ac temporum, vicissitudinem laboris ac voluptatis. nam quod ais nulla re adlici

skins,' instead of rich coverlets and cushions.

lectulos Punicanos] wooden benches of the Punic pattern, to serve as *lecti.* Halm. But see Appendix D.

vasa Samia] earthenware, not, as they should have been, of metal, e g Corinthian bronze: [not silver, as Fabius had himself not much of that, Plin H N XXXIII 141] Zumpt. Compare auct ad Herenn IV § 64 *utatur* (*argento*) *licet, nos Samiis delectabimur.* Halm.

Diogenes] of Sinope, the most celebrated of the Κυνικοί. He was noted for his plain speaking (παρρησία), and for his devotion to proving the smallness of human needs. His tub is well known. The Cynics were in many points the moral forerunners of the Stoics.

et non] 'instead of.'

supremo die] his funeral.

laudaret] the funeral oration, delivered in the Forum at the Rostra by some relative of the deceased.

sapientiam] 'philosophy.' See on § 30.

76 *deiectus est*] = *in praeturae petitione repulsam tulit.* Compare I in Verr § 23 *si me aedilitate deiecissent.* Liv III 35 *deiectis honore per coitionem duobus Quintiis.*

odit......diligit] quoted by Quint IX 3 § 82, as an instance of the figure *distinctio.*

privatam......publicam] for sense compare pro Flacco § 28, Hor Carm II 15 13 *privatus illis census erat brevis, commune magnum.*

inhumanitatem] 'boorishness,' want of refinement. Compare § 66.

distinguit......voluptatis] Madvig Adv II 208 says that *distinguere rationem* is a wrong expression, and comes in very awkwardly here. He and Klotz read *ratione.* Halm points out that the thought is the same as in § 74 *qui tempora voluptatis laborisque dispertiunt*, from which he (suspecting an interpolation here) believes it to be taken. He remarks that *nam quod ais* etc goes better with the *sordes et inhumanitatem* above. But surely *distinguere*=to draw the line. Render 'marks clearly the various principles which suit different calls and different occasions, the alternations of work

hominum mentes oportere ad magistratum mandandum nisi dignitate, hoc tu ipse, in quo summa est dignitas, non servas. cur enim quemquam, ut studeat tibi, ut te adiuvet, rogas? rogas tu me, ut mihi praesis, ut committam ego me tibi? quid tandem? istuc me rogari oportet abs te an te potius a me, ut pro mea salute laborem periculumque suscipias? quid, quod habes nomenclatorem? in eo quidem fallis et 77
decipis. nam si nomine appellari abs te cives tuos honestum est, turpe est eos notiores esse servo tuo quam tibi. sin etiam, cum noris, tamen per monitorem appellandi sunt, cur nomen petis quasi incertum sit? quid, quod, cum admoneris, tamen quasi tute noris, ita salutas? quod, posteaquam es designatus, multo salutas neglegentius? haec omnia ad rationem civitatis si derigas, recta sunt: sin perpendere ad disciplinae praecepta

and play' (which make occasions vary). It is no doubt a platitude, and *voluptatis* must not be too curiously referred to the particular funeral banquet in question.

ut mihi praesis] = *ut tibi liceat mihi praeesse.* Halm.

quid tandem?] what is one to say? 'dear me!'

te potius a me] for this question compare Plato Rep 345—6, Ar Pol II 2 § 6. The Stoic dogma is given by Diog L VII § 121 πολιτεύσεσθαί φασι τὸν σοφόν, ἂν μή τι κωλύῃ...... καὶ γὰρ κακίαν ἐφέξειν, καὶ ἐπ' ἀρετὴν παρορμήσειν, Plin Epp I 10 §§ 9, 10, the Epicurean view in ad Att XIV 20 § 5. See Lecky's History of European Morals, vol I p 212.

77 *nomenclatorem*] these must have been at this time allowed by law, for in BC 72 when Cato was candidate for the military tribuneship, νόμου γραφέντος ὅπως τοῖς παραγγέλλουσιν εἰς ἀρχὴν ὀνοματολόγοι μὴ παρῶσι, χιλιαρχίαν μετιὼν μόνος ἐπείθετο τῷ νόμῳ, Plut Cato 8.

honestum......turpe] terms in moral philosophy, translating the Greek καλὸν and αἰσχρόν.

sin etiam......etc] very mutilated in the MSS. Halm gives it up. I have taken his *etiam cum*, and Zumpt's *quasi incertum sit* is from MS Lag 9. 'But if, even in case of men whom you know, you must needs make a show of asking your recognition-agent before addressing them, why is it that you ask "who is this coming?" making as though you did not know the man?' I admit that this is forced, but the passage is too far gone for any clear or certain explanation.

rationem civitatis] = *civitas* § 74.

derigas ad] = judge by the standard of......, guide by...... Compare § 3 *ad normam derigenti*, de orat I § 130 *ut ad hanc similitudinem huius histrionis oratoriam laudem derigamus.* de republ II § 55 *exempla ad quae reliqua oratio derigatur mea.* So with ablative de fin II § 7 *voluptate omnia dirigentes.* The MSS vary as to the form of the word.

recta] compare on § 3. *pravum* or *curvum* is the Stoic antithesis to *rectum*. Compare Hor Epp II 2 44, Persius III 52, IV 11, V 38.

perpendere] test by weighing them

velis, reperiantur pravissima. quare nec plebi Romanae eripiendi fructus isti sunt ludorum, gladiatorum, conviviorum, quae omnia maiores nostri comparaverunt, nec candidatis ista benignitas adimenda est, quae liberalitatem magis significat quam largitionem.

78 XXXVII. at enim te ad accusandum res publica adduxit. credo, Cato, te isto animo atque ea opinione venisse, sed tu imprudentia laberis. ego quod facio, iudices, cum amicitiae dignitatisque L Murenae gratia facio, tum me pacis, otii, concordiae, libertatis, salutis, vitae denique omnium nostrum causa facere clamo atque testor. audite, audite consulem, iudices, nihil dicam adrogantius, tantum dicam, totos dies atque noctes de re publica cogitantem! non usque eo L Catilina rem publicam despexit atque contempsit, ut ea copia, quam secum

in the Stoic scale of right and wrong. Compare § 3.

reperiantur] 'must surely be found,' though of course I leave it to a Stoic like yourself to decide. Compare Madvig § 350 b. For the matter of this passage Halm compares de orat I § 112.

comparaverunt] = *instituerunt*. Compare auct ad Herenn IV § 23 *bene maiores nostri hoc comparaverunt*. I in Verrem § 42 *comparata sunt* (*iudicia de pecuniis repetundis*).

XXXVII 78 *res publica*] the common weal. State interests.

isto......ea] Halm treats this as a case in which one demonstr pronoun (as often) is caught up by another, referring to Nägelsbach Stil § 93 I. Add Madvig § 489 a. But *ea* goes with *opinione;* it does not catch up *isto*. Zumpt rightly explains *isto animo* as 'your usual spirit.' Compare § 64, *cum ista natura*, 'with the temperament we all know so well,' § 66 *ista*. *ea opinione* = 'that belief,' viz that the common weal demands the condemnation of Murena. The sense then will be, 'I readily believe that it was your well-known patriotism, backed by the belief that in this case you had taken the side of your country, that brought you here.' Compare Madvig § 486.

opinione] there is a certain archness in this word: Cicero insinuates that Cato 'supposes' or 'believes' (I use the word in the modern sense) something at last. Compare §§ 61, 62, 63.

laberis] i e your patriotism is deceived; you are on the wrong side, for Rome needs a consul like Murena. Tischer compares pro Marcell § 20 *viris non cupiditate aliqua aut pravitate lapsis sed opinione officii*.

copia] the singular is rare in this sense. Zumpt suggests that it is used to shew that in Cicero's opinion the force outside is not so dangerous as are the forces of the conspirators (*copiae*) in the city. Compare in Catil I § 9 for the matter. For the word compare the letter of Pompeius cited in ad Att VIII 12 (C §§ 1, 2) *neque solus cum ista copia tantam multitudinem sustinere poteris, ut frumentatum eas. quamobrem te magno*

eduxit, se hanc civitatem oppressurum arbitraretur. latius patet illius sceleris contagio, quam quisquam putat, ad plures pertinet. intus, intus, inquam, est equus Troianus, a quo numquam me consule dormientes opprimemini. quaeris a me, 79
ecquid ego Catilinam metuam. nihil, et curavi ne quis metueret, sed copias illius, quas hic video, dico esse metuendas; nec tam timendus est nunc exercitus L Catilinae quam isti, qui illum exercitum deseruisse dicuntur. non enim deseruerunt, sed ab illo in speculis atque insidiis relicti in capite atque in cervicibus nostris restiterunt. hi et integrum consulem et bonum imperatorem et natura et fortuna cum rei publicae salute coniunctum deici de urbis praesidio et de custodia civitatis vestris sententiis deturbari volunt. quorum ego ferrum et audaciam reieci in campo, debilitavi in foro, compressi

opere hortor ut quam primum cum omni copia huc venias.

quisquam] see on § 60.

intus, intus] compare in Catil II § 11.

dormientes] Virg Aen II 265 *invadunt urbem somno vinoque sepultam.*

79 *ego*] Cicero had left the charge of the war to his colleague Antonius.

quas hic video] in Catil II § 5 *hos, quos video volitare in foro.*

nec tam......] in Catil II § 5 *non tam exercitum illum esse nobis quam hos, qui exercitum deseruerunt, pertimescendos.*

dicuntur] i e it is merely a lie, a stratagem, that they may catch us napping. Zumpt with MS Lag 9 reads *videntur.*

cervicibus] Zumpt quotes ad fam XII 23 § 2 *easque (legiones) in cervicibus nostris collocare.*

restiterunt] have stopped behind. Compare Liv XXXVII 21 *ut nemo pugnandi causa restiterit.*

natura] 'character,' 'temperament.' Compare § 64.

fortuna] 'circumstances,' 'position.' Compare § 83.

deici] 'be dislodged,' a military term. *deicere praesidium* (a guard) is common in Caesar, and compare Hor Epp II 2 30 *praesidium regale loco deiecit, ut aiunt, summe munito et multarum divite rerum.* Compare also § 82.

custodia] compare § 64.

reieci] 'have repelled.' Compare ad fam II 10 § 2 *feliciter ab Antiochea hostem reiecerat.* 'Have foiled' probably comes nearest to the sense. See the metaphor from gladiators' thrusts, in Catil I § 15 with Mr Wilkins' note.

in campo] compare § 52.

debilitavi] the word properly means to 'cripple,' 'maim.' See §§ 43, 45, 80, 82, Liv XXI 40. So Gaius III 146 speaks of gladiators after a fight as *debilitati* opposed to *integri*, Virg Aen V 271 *ordine debilis uno* (of the disabled ship), Mart VIII 6 *hoc cratere ferox commisit proelia Rhoecus cum Lapithis; pugna debile cernis opus* (of a dented bowl).

in foro] refers, I think, especially to the second speech against Catiline. See the menace in § 6 of that speech.

etiam domi meae saepe, iudices, his vos si alterum consulem tradideritis, plus multo erunt vestris sententiis quam suis gladiis consecuti. magni interest, iudices, id quod ego multis repugnantibus egi atque perfeci, esse Kalendis Ianuariis in re
80 publica duos consules. nolite arbitrari, mediocribus consiliis aut usitatis vitiis aut * *; non lex improba, non perniciosa largitio, non auditum aliquando aliquod malum rei publicae quaeritur; inita sunt in hac civitate consilia, iudices, urbis delendae, civium trucidandorum, nominis Romani exstinguendi. atque sic cives, cives inquam, si eos hoc nomine appellari fas est, de patria sua et cogitant et cogitaverunt. horum ego cotidie consiliis occurro, audaciam debilito, sceleri resisto, sed moneo, iudices: in exitu iam est meus consulatus; nolite mihi subtrahere vicarium meae diligentiae, nolite adimere eum, cui

compressi] so Phil II § 21 *impetum tuum compressisset.* 'Have stopped,' 'brought up sharp.' Sallust says *ianua prohibiti.*

domi meae] alluding to the attempt of C Cornelius and L Vargunteius on his life. Compare in Catil I §§ 9, 10, pro Sulla § 18, Sall Cat 28.

saepe] Cicero speaks of previous attempts, in Catil I §§ 11, 15, but there as here he is probably exaggerating the fact by way of frightening the jury.

his vos si=*hi, si vos iis.* Halm.

egi atque perfeci] i e I stood out against the further delay of the consular election, and carried it through in spite of danger. Compare § 52. Tischer.

duos] compare § 4. This was the argument that procured Murena's acquittal, as Cicero says, pro Flacco § 98 *nemo illorum iudicum clarissimis viris accusantibus audiendum sibi de ambitu putavit cum bellum iam gerente Catilina omnes me auctore duos consules Kalendis Ianuariis scirent esse oportere.* Quintilian VI I § 35 remarks the same.

80 *vitiis*] so the MSS. Zumpt justifies *usitatis* by II in Verr II § 9 *si usitato more peccasset.* The lacuna which follows is filled up thus by Fr Richter, *aut* [*humana ac toleranda audacia ab istis desperatis hominibus agi*], by Boot *aut* [*exiguis copiis rem publicam impugnari*]. Halm.

largitio] see on § 24.

rei publicae] dative after *malum.*

quaeritur] is aimed at, sc by the conspirators.

inita sunt] in the passive this construction with genitive of the gerundive is always used. Compare § 81, pro Sulla § 3 *nam si est initum a P Sulla consilium inflammandae huius urbis, extinguendi imperii, delendae civitatis. inire consilium* is sometimes followed by the infinitive. Madvig § 417, obs 2.

occurro] not as in § 48 but (as often) in an unfavourable sense.

moneo] the construction is changed: it would, if regular, run on *in exitu iam esse meum consulatum.*

rem publicam cupio tradere incolumem ab his tantis periculis defendendam.

XXXVIII. atque ad haec mala, iudices, quid accedat aliud, 81
non videtis? te, te appello, Cato: nonne prospicis tempestatem anni tui? iam enim in hesterna contione intonuit vox perniciosa designati tribuni, collegae tui, contra quem multum tua mens, multum omnes boni providerunt, qui te ad tribunatus petitionem vocaverunt. omnia, quae per hoc triennium agitata sunt, iam ab eo tempore, quo a L Catilina et Cn Pisone initum consilium senatus interficiendi scitis esse, in hos dies, in hos menses, in hoc tempus erumpunt. qui locus est, iudi- 82
ces, quod tempus, qui dies, quae nox, cum ego non ex istorum insidiis ac mucronibus non solum meo, sed multo etiam magis divino consilio eripiar atque evolem? neque isti me meo nomine interficere, sed vigilantem consulem de rei publicae praesidio demovere volunt; nec minus vellent, Cato, te quo-

tradere] compare § 3.

incolumem] with *defendendam* compare pro Flacco § 98 *incolumis est reipublicae conservatus*, pro Planc § 12.

xxxviii 81 *non*] with doubt and surprise, but implying that an answer is expected in the negative. Madvig § 450. *nonne*, 'you surely must' see the storm brewing ahead of you, for you are elected tribune for next year and must have looked forward, while it is just barely possible that the jury may need reminding. Madvig § 451 c.

contione] probably he had attacked Cicero's measures against the conspiracy of Catiline.

intonuit] carrying out the metaphor of *tempestatem*. See the story in Plut Cato 20, δίκην σκηπτοῦ.

collegae tui] Q Metellus Nepos, who when Cicero at the end of the year laid down his consulship prevented him from delivering the usual address to the people. Compare ad fam V 2 § 7. He was afterwards reconciled to Cicero by P Servilius Vatia, and in 57 BC supported his recall from exile.

tua mens] he had been urged to stand for the tribuneship, but had refused. When however he found that Metellus was going to stand, he changed his mind, and came forward ὡς ἀντιταξόμενος πρὸς τὸν Μέτελλον, Plut Cato 20.

eo tempore] the first Catilinarian conspiracy, at the end of BC 66. Compare Sall Cat 18.

erumpunt] are bursting forth upon this season. So in Catil I § 31 *omnium scelerum maturitas in nostri consulatus tempus erupit*, the metaphor is the same as above.

82 *insidiis*] compare in Catil IV § 2. Tischer.

cum...evolem] Madvig § 358, obs 4.

meo nomine] on my own account, 'as Cicero.' Compare § 69 *talis viri nomine*, 'in the cause of a man of that sort.'

que aliqua ratione, si possent, tollere, id quod, mihi crede, et agunt et moliuntur. vident, quantum in te sit animi, quantum ingenii, quantum auctoritatis, quantum rei publicae praesidii: sed cum consulari auctoritate et auxilio spoliatam vim tribuniciam viderint, tum se facilius inermem et debilitatum te oppressuros arbitrantur. nam ne sufficiatur consul, non timent: vident in tuorum potestate collegarum fore, sperant sibi Silanum, clarum virum, sine collega, te sine consule, rem
83 publicam sine praesidio obici posse. his tantis in rebus tantisque in periculis est tuum, M Cato, qui mihi non tibi, sed patriae natus esse videris, [videre quid agatur,] retinere adiutorem, defensorem, socium in re publica, consulem non cupidum, consulem, quod maxime hoc tempus postulat, fortuna constitutum ad amplexandum otium, scientia ad bellum gerendum, animo et usu ad quod velis negotium.

XXXIX. quamquam huiusce rei potestas omnis in vobis sita est, iudices: totam rem publicam vos in hac causa tenetis, vos

agunt] have in view; *moliuntur*, are working to effect. Cicero is fond of joining these words. Compare ad fam VI 10 § 2 etc. Zumpt.

fore] sc *hoc*, *ne sufficiatur consul:* they could stop the holding of an election by their *veto*. Halm. D Iunius Silanus was the other consul elect.

83 *non tibi*, *sed patriae*] compare Lucilius incert I *commoda praeterea patriai prima putare*, *deinde parentum*, *tertia iam postremaque nostra.* So Lucan II 383 says of Cato *nec sibi sed toti genitum se credere mundo*, where the statement is enlarged and distorted by false rhetoric. For the moral tone of the present passage see Lecky's History of European Morals, vol I p 255. Three MSS insert *non* before *mihi*, which Zumpt accepts, comparing for the sense thus given de fin II § 45, de off I § 22.

videris] seems to have dropped out before *videre.* It was restored by Madvig and Klotz, and is now generally accepted.

cupidum] 'greedy,' 'passionate,' after honour or money. Compare pro Fonteio § 22 *cupidos moderatis anteferre.* Almost = ambitious, as in Hor A P 165 *sublimis cupidusque.* See also above § 52 *cupiditate.*

fortuna] compare on § 79. Murena is a well-to-do man, and hence not *rerum novarum cupidus.*

scientia] so in § 34 *summi consilii.*

animo et usu] spirit backed by experience.

quod velis] = *quodvis.*

xxxix *quamquam*] 'still' (though things look so black). Here Cicero passes on to the *epilogus* or *peroratio* of the speech.

in vobis sita est] = *penes vos est.* Tischer.

tenetis] sustain. Compare *tenebatur* § 58, note.

gubernatis. si L Catilina cum suo consilio nefariorum homi-
num, quos secum eduxit, hac de re posset iudicare, condem-
naret L Murenam, si interficere posset, occideret. petunt
enim rationes illius, ut orbetur auxilio res publica, ut minuatur
contra suum furorem imperatorum copia, ut maior facultas
tribunis plebis detur, depulso adversario, seditionis ac discor-
diae concitandae. idemne igitur delecti amplissimis ex ordini-
bus honestissimi atque sapientissimi viri iudicabunt, quod ille
importunissimus gladiator, hostis rei publicae iudicaret? mihi 84
credite, iudices, in hac causa non solum de L Murenae,
verum etiam de vestra salute sententiam feretis. in discrimen
extremum venimus: nihil est iam, unde nos reficiamus aut ubi
lapsi resistamus. non solum minuenda non sunt auxilia, quae
habemus, sed etiam nova, si fieri possit, comparanda. hostis
est enim non apud Anienem, quod bello Punico gravissimum
visum est, sed in urbe, in foro—di immortales! sine gemitu
hoc dici non potest—non nemo etiam in illo sacrario rei pub-
licae, in ipsa, inquam, curia non nemo hostis est. di faxint,
ut meus collega, vir fortissimus, hoc Catilinae nefarium latro-

consilio] = bench of judges. Catiline is represented (*fingitur*) as sitting in judgment on Murena with his fellow-conspirators for jury.

eduxit] so in Catil II § 4.

si posset etc] this is quoted by Quint V 10 § 99 as an instance of *argumenta ducta a fictione, quod Graeci καθ' ὑπόθεσιν vocant.* So Ar Rhet I 6 § 19 καὶ οὗ τὸ ἐναντίον τοῖς ἐχθροῖς συμφέρει (ἀγαθόν). Compare Iliad I 255 ἦ κεν γηθήσαι Πρίαμος, Virg Aen II 104 *hoc Ithacus velit et magno mercentur Atridae.*

rationes] 'his plans.' Compare on § 46; almost = 'interest.' pro Planc § 52.

auxilio] sc *consulari* § 82.

imperatorum] such as Murena. See on *scientia* above.

tribunis] such as Metellus. See on § 81.

importunissimus] 'that most savage of cut-throats.' So in Catil II § 12 *importunissimum hostem*, below § 85.

gladiator] compare § 50.

hostis] 'public enemy.' Emphatic, as in Catil III § 17.

84 *resistamus*] 'regain our footing.' This rare use is also found in Ennius (quoted in de divin I § 41) *post ex fluvio fortuna resistet.*

apud Anienem] compare Liv XXVI 10. Polybius IX 5 § 9, Mommsen, bk III c 6. This was in 211 BC, the distance 3 or 4 miles from Rome.

non nemo] 'one or two.' Certain persons are meant, but not named. Compare Madvig § 493 c, obs.

sacrario] 'shrine' of the people's interests.

faxint] the usual form in solemn wishes. Compare Roby, Lat Gr II 20 § 620.

cinium armatus opprimat, ego togatus, vobis bonisque omnibus adiutoribus, hoc, quod conceptum res publica periculum
85 parturit, consilio discutiam et comprimam! sed quid tandem fiet, si haec elapsa de manibus nostris in eum annum, qui consequitur, redundarint? unus si erit consul et is non in administrando bello sed in sufficiendo collega occupatus, haec iam qui impedituri sint? * * * * illa pestis immanis importuna Catilinae prorumpet, quae * * * minatur: in agros suburbanos repente advolabit; versabitur in *urbe* furor, in curia timor, in foro coniuratio, in campo exercitus, in agris vastitas; omni autem in sede ac loco ferrum flammamque metuemus, quae iam diu comparantur. eadem ista omnia, si ornata suis praesidiis erit res publica, facile et magistratuum consiliis et privatorum diligentia comprimentur.

86 XL. quae cum ita sint, iudices, primum rei publicae causa, qua nulla res cuiquam potior debet esse, vos pro mea summa et vobis cognita in re publica diligentia moneo, pro auctoritate consulari hortor, pro magnitudine periculi obtestor, ut otio, ut paci, ut saluti, ut vitae vestrae et ceterorum civium consulatis: deinde ego idem vos defensoris et amici officio adductus oro atque obsecro, iudices, ut ne hominis miseri et cum

latrocinium] 'band of brigands.' Compare in Catil I § 31 *quodsi ex tanto latrocinio iste unus tolletur.*

togatus] in a civilian capacity, opposed to *armatus.*

periculum] this word is omitted by MS Lag 9.

parturit] compare Phil II § 118 *ut aliquando dolor populi Romani pariat, quod iamdiu parturit.*

85 *redundarint*] run over into. For metaphor compare Nägelsb Stil 132.

collega] to take Murena's place.

sint] I have here (after Halm) returned to the MS reading. A lacuna follows, and the words to *minatur* are likewise imperfect.

immanis] after this word Halm very plausibly conjectures that *manus* has been lost. Compare pro Sest § 42 *Catilinae importunam manum.*

prorumpet] from the gorges of the Apennines. Halm.

in urbe] the MSS are here also imperfect. Most read *castris*, which is probably supplied from conjecture, and one has *rostris*. I have taken Halm's emendation provisionally.

vastitas] 'desolation,' as usual.

suis] 'with its proper means of defence.' Tischer.

xl 86 *moneo—hortor—obtestor*] climax. 'warn'—'urge'—'adjure.'

ut ne] *ut* expresses the object in general, *ne* the negation. Madvig § 456.

corporis morbo tum animi dolore confecti, L Murenae, recentem gratulationem nova lamentatione obruatis. modo maximo beneficio populi Romani ornatus fortunatus videbatur, quod primus in familiam veterem, primus in municipium antiquissimum consulatum attulisset: nunc idem squalore et sordibus ** confectus, lacrimis ac maerore perditus, vester est supplex, iudices, vestram fidem obtestatur, *vestram* misericordiam implorat, vestram potestatem ac vestras opes intuetur. nolite, 87
per deos immortales! iudices, hac eum re, qua se honestiorem fore putavit, etiam ceteris ante partis honestatibus atque omni dignitate fortunaque privare. atque ita vos si Murena, iudices, orat atque obsecrat, si iniuste neminem laesit, si nullius aures voluntatemve violavit, si nemini, ut levissime dicam, odio nec

obruatis] 'do not drown the sounds of congratulation still fresh in his ears with the sudden voice of woe.'

beneficio] see § 3.

familiam veterem] compare §§ 15, 53.

municipium) Lanuvium, § 90. It was an ancient Latin town among the Alban hills. No distinction was drawn between these old cantonal centres and the *coloniae Latinae*, save that now and then the latter are spoken of as *coloniae* to mark their origin. By the Julian law of BC 90 all alike were offered the citizenship. But Lanuvium was conquered in BC 338, and received the *civitas sine suffragio*. The people became *municipes* in relation to Rome, i e they bore burdens, such as army-service and the *tributum*, but had no vote. Compare Mommsen, bk II c 5. At a later time, before the Julian law, they had received the full citizenship. Compare § 42.

squalore et sordibus] compare pro Cluent § 18, and Prof Ramsay's note. Here follows a small lacuna.

vester est supplex] so pro Cluent § 200 *supplicem vestrum*, div in Caecil § 17 *supplices vestri*, I in Verrem § 53.

87 *hac eum re......ceteris*] the double ablative has an awkward air, but the same may be said of § 23 (see note); the real difficulty is that *hac re*=his desire of the consulship, *qua*=his attainment of it. Tischer well compares Tusc disp II § 43 *quod ergo et postulatur a fortibus et laudatur, quum fit, id aut extimescere veniens aut non ferre praesens nonne turpe est?* where *quod = toleranter dolorem pati*, but *id=dolorem*.

honestatibus] *honestas* is the quality imparted by *honores*, as we say 'distinction.' The plural in this sense seems to occur here only. See §§ 21, 64.

ita] 'as I describe him,' *lacrimis ac maerore perditus* etc.

si] 'if, as is the fact,'=εἴπερ, as often, especially, as Zumpt remarks, in perorations. Compare § 90, pro Cluent § 200, pro Rosc Am § 153, pro Balbo § 64.

neminem ... nullius ... nemini] a good instance of Latin usage.

levissime] so in Catil III § 17, pro Sest § 145. 'To make the least of it.

domi nec militiae fuit, sit apud vos modestiae locus, sit demissis perfugium, sit auxilium pudori. misericordiam spoliatio consulatus magnam habere debet, iudices: una enim eripiuntur cum consulatu omnia. invidiam vero his temporibus habere consulatus ipse nullam potest; obicitur enim contionibus seditiosorum, insidiis coniuratorum, telis Catilinae, ad omne denique periculum atque ad omnem invidiam solus
88 opponitur. quare qui invidendum Murenae aut cuiquam nostrum sit in hoc praeclaro consulatu, non video, iudices: quae vero miseranda sunt, ea et mihi ante oculos versantur et vos videre et perspicere potestis. XLI. si—quod Iuppiter omen avertat!—hunc vestris sententiis adflixeritis, quo se miser vertet? domumne? ut eam imaginem clarissimi viri, parentis sui, quam paucis ante diebus laureatam in sua gratulatione conspexit, eandem deformatam ignominia lugentemque videat? an ad matrem? quae misera, modo consulem osculata filium suum, nunc cruciatur et sollicita est, ne eundem
89 paulo post spoliatum omni dignitate conspiciat? sed quid

demissis] so with Zumpt and MS Lag 9 I prefer to read, leaving out the *hominibus* which follows in most MSS. The conjecture *demissioni animi* seems to me clever but superfluous.

pudori] compare §§ 30, 64, 90.

spoliatio] the verbal in *io* as a passive; so § 86 *gratulationem*. See Nägelsbach § 59.

habere] compare on § 68.

obicitur] 'is exposed to'..., 'at the mercy of'... compare § 82.

opponitur] 'is set to meet.' Compare the play on this word in Catull 26.

88 *praeclaro*] 'this glorious'... ironical, compare § 22.

miseranda sunt] sc *in hoc consulatu*.

xli *omen*] contained in the unlucky word *adflixeritis*.

quo...conspiciat?] Matthiae well remarks that this is probably imitated from the words of C Gracchus, quoted in de orat III § 214 *quo me miser conferam? quo vertam? in Capitoliumne? at fratris sanguine madet. an domum? matremne ut miseram lamentantem videam et abiectam?* also loosely quoted in Quint XI 3 § 115. Compare also Eur Med 502—5 and the translation in de orat III § 217.

laureatam] his father was a *vir triumphalis*, and the wreath on his bust would be renewed in order to receive the newly-elected consul home with rejoicing.

ignominia] properly of punishment affecting civil or military position, particularly of the *nota censoria*. Here of the effect of condemnation under the *lex Tullia* (compare on § 46), and rhetorically made to extend to the father's bust.

ego matrem eius aut domum appello, quem nova poena legis et domo et parente et omnium suorum consuetudine conspectuque privat? ibit igitur in exilium miser. quo? ad orientisne partes, in quibus annos multos legatus fuit, exercitus duxit, res maximas gessit? at habet magnum dolorem, unde cum honore decesseris, eodem cum ignominia reverti. an se in contrariam partem terrarum abdet, ut Gallia transalpina, quem nuper summo cum imperio libentissime viderit, eundem lugentem, maerentem, exulem videat? in ea porro provincia quo animo C Murenam fratrem suum aspiciet! qui huius dolor! qui illius maeror erit! quae utriusque lamentatio! quanta autem perturbatio fortunae atque sermonis, cum, quibus in locis paucis ante diebus factum esse consulem Murenam nuntii litteraeque celebrarint et unde hospites atque amici gratulatum Romam concurrerint, repente existet ipse nuntius suae calamitatis! quae si acerba, si misera, si luctuosa sunt, 90
si alienissima a mansuetudine et misericordia vestra, iudices, conservate populi Romani beneficium, reddite rei publicae consulem: date hoc ipsius pudori, date patri mortuo, date generi et familiae, date etiam Lanuvio, municipio honestissimo, quod in hac tota causa frequens maestumque vidistis. nolite a sacris patriis Iunonis Sospitae, cui omnes consules facere necesse est, domesticum et suum consulem potissimum avel-

89 *appello*] 'name,' 'speak of.' Compare pro Sest § 108.

nova poena] of the *lex Tullia.* Compare on § 46.

habet] compare on § 68.

summo cum imperio] as propraetor. Compare § 42. He had left his brother Gaius there in charge as *legatus* when he came to Rome to seek the consulship. Sall Cat 42.

perturbatio] turning topsy-turvy. A strong term, like many in this peroration.

sermonis] people will not know what to call him, and will doubt whether they know anyone's correct style after so sudden a change.

90 *pudori*] compare on §§ 30, 64.

quod...frequens] i e crowds of supporters from Lanuvium. *tota*, i e all the while this trial has been going on.

sacris] compare Liv VIII 14 *Lanuvinis civitas data sacraque sua reddita cum eo ut aedes lucusque Sospitae Iunonis communis Lanuvinis municipibus cum populo Romano esset.*

facere] 'sacrifice,' as in ad Att I 13 § 3. Compare Virg Ecl III 77.

suum] as a native of the town to which the worship properly belonged.

lere. quem ego vobis, si quid habet aut momenti commendatio aut auctoritatis confirmatio mea, consul consulem, iudices, ita commendo, ut cupidissimum otii, studiosissimum bonorum, acerrimum contra seditionem, fortissimum in bello, inimicissimum huic coniurationi, quae nunc rem publicam labefactat, futurum esse promittam et spondeam.

momenti] if it can turn the scale so as to get a favourable verdict. Compare in Vatin § 9 *id est maximi momenti et ponderis.*

Variations from Halm's Text, 1868.

§ 3. a me uno. una. MSS. una *cum consulatu.* H (ex coni.). his. iis. H.

§ 4. communis salutis. salutis communis. H.

§ 6. negat. at negat. H.

§ 8. favi. adfui. H. petis. petas. H.

quae si causa non esset hominis, tamen honoris eius...	...esset, tamen vel dignitas hominis vel honoris eius......H.
nemini, sic existimo, quibus ceperis, ea, cum adeptus sis, deponere, esse....	nemini, quibus laboribus ea ceperis, eos, cum adeptus sis, deponere, esset...H.

§ 13. aliquo convicio. aliquod convicium. H.

§ 14. in vita. om H.

§ 16. generis sui. generis sua. H (ex coni.).

§ 19. vocatur, ab utroque dissimillima ratione tractatum.	vocatur, ab utroque dissimillima ratione transactum est. H (ex coni.).

§ 20. loquar. loquor. H. tantum laudis. tantum *huic* laudis. H (ex coni.). impertit. impertiit. H (ex coni.).

§ 21. pari. parem. H (ex coni.). eadem in. in eadem H.

apud exercitum mihi fueris, inquit, tot annos, forum non attigeris?	apud exercitum mihi fueris? inquit, tot annis forum non attigeris? H.

tam diu, ut. tam diu, et. H (ex coni.). expedit. expediit. H (ex coni.). idem. item. H (ex coni.).

§ 22. qui potes dubitare. qui potest dubitari. H.

rei militaris [quam iuris civilis] gloria?	rei militaris quam iuris civilis gloria? H.

§ 23. didicisti. dilexisti. H. conciliant. concilient. H.

§ 24. in his. in iis. H. dicendi facultas. facultas. H.

§ 25. petebatur. petebantur. H. ediscendis. discendis. H. causis. capsis. H.

§ 27. corrupta et. corrupta ac. H. putarent. putarunt. H.

§ 28. aliquando. aliquamdiu. H.

§ 29. nonnullos. apud nos. H.

§ 30. aliquis motu. aliquo motu. H. geritur res [publica]. geritur res. H.

§ 31. gratissimae. clarissimae. H.

§ 32. mihi statuam. mihi statuo. H. numquam cum Scipione esset. nunquam esset. H. hunc regem nimirum antepones. hunc antepones. H. pugnae certe non rudis. pugnax et acer et non rudis. H. bello invectum. bellum invexisset. H.

§ 38. sumpsit; ipse cum... sumpsit ipse, cum... H. praerogativae. (sic et H ed 1872). praerogativum. H.

§ 40. L Otho, [vir fortis,]. L Otho, vir fortis. H.

§ 42. ipse autem. ipsa autem. H (ex coni.).

interea Romae scilicet amicis—(sic et H ed 1872).	interea amicis. H.

§ 43. Servius. [Servius]. H. consulatum. [consulatum]. H. his rebus. in iis rebus. H.

§ 45. aut desertam. ut desertam. H.

§ 46. existimasti. si existimasti. H. facere posse: vehementer. facere posse, vehementer. H.

§ 47. proderant. proderat. H. prorogationem. perrogationem. H.

§ 48. sapientiae. satietati. H.

§ 49. quibus rebus certe spes candidatorum obscuriores videri solent. (H 1872).	quibus rebus candor ipse candidatorum obscurior videri solet. H.

circumfluente. circumfluentem. H.

§ 51. quia timebant. quia omnia timebant. H.

§ 52. homines iam tum coniuratos. om H. a Catilina. Catilinam. H.

§ 55. quae relicta. quae ei relicta. H.

§ 57. amicis. amicus. H.

§ 58. possit. posset. H.

§ 62. dixisti: quippe, iam. dixisti quippiam. H.

§ 63. esse moderatas (sic et H ed 1872). esse moderandas. H (ex coni.).

§ 64. seposuisses. si dixisses. H. (si posuisses. H 1872).

§ 65. isti ipsi mihi. isti mihi. H.

nihil omnino gratiae concesseris. nihil gratiae causa feceris. H.

etiam, in dissolvenda severitate; sed tamen.	etiam, sed tamen. H.

§ 66. sententiam sententia alia. sententia alia. H.

§ 67. qui lege punierim. quod lege punierim. H. nisi iudicat. si iudicat. H. candidatis. candidatus H. si factum sit. sin factum est. H.

§ 68. id indicare. id vindicare. H.

§ 70. necessarios candidatos adsectentur. necessarios adsectentur. H.

§ 71. gratia. ipsi denique. gratia ipsi. denique. H.

§ 72. adsequebantur. adsequi. H.

§ 73. a multitudine in tuam nimiam diligentiam, Servi, coniecta sunt.

tua nimia diligentia, Servi, conlecta sunt. H.

gladiatorium. gladiatoribus. H.

§ 76. rationem officiorum ac temporum, vicissitudinem..... (sic et H ed 1872.)

ratione officiorum ac temporum vicissitudinem...... H (ex coni.).

§ 77. sin etiam cum noris tamen per monitorem appellandi sunt, cur nomen petis quasi incertum sit? quid, quod, cum admoneris, tamen quasi tute noris, ita salutas? quod posteaquam...

sin etiam, cum noris, tamen per monitorem appellandi sunt, cur ante petis, quam nomen citavit? aut quid admoneris, si tamen, quasi tute noris, ita salutas? quid, quod, posteaquam ... H.

§ 79. speculis atque insidiis. speculis atque in insidiis. H.

§ 80. usitatis vitiis aut... ; non. usitatis viis aut... ; non. H.

§ 83. hoc tempus. tempus hoc. H.

§ 85. immanis, importuna. immanis, manus importuna. H.

quae * * * minatur.

quae perniciem iam diu bonis omnibus minatur. H.

§ 86. squalore et sordibus * * * * in squalore et sordibus * * * * H.

§ 87. hac eum re. hac eum cum re. H. ita vos si Murena. ita vos L Murena. H. fuit, sit...... fuit, ut sit...... H. demissis. demissioni animi. H.

APPENDIX.

A. *On the spirit of Roman trials.*

Prof. Ramsay well remarks, 'the moral feeling which prevailed in a Roman court of justice was entirely at variance with the principles which rule our own.' It may be well to draw out shortly some of the main differences.

1. There was no class of professional advocates, taking fees and living by their profession. Any citizen could come forward to accuse or defend any other: and, as a high reputation for able pleading helped a man in rising to official distinction, many did so (pro Mur §§ 8, 24). It was also a great advantage to have the power of addressing assemblies with effect (pro Mur § 24). This naturally led to the introduction of irrelevant matter into speeches in court (see the *partitio* § 11, where the irrelevance of two of the heads is manifest), particularly allusions to the situation of affairs at the moment, and the probable effect on them of the condemnation or acquittal of the accused (see Introduction C and 1 in Verrem §§ 10, 15, 17, 20).

2. It not unfrequently happened that a corrupt collusion existed between the accuser and accused. For a sum of money or some other consideration the former would play into the hands of the latter, suppressing evidence and making only a feeble attack upon him. This was called *praevaricatio* (pro Cluent §§ 58, 87, div in Caecil § 58, etc), and was properly applied only to the accuser in a public—that is, a criminal—trial. Hence the chief security for an honest prosecution lay in the personal hostility of the *accusator* to the *reus* (see div in Caecil § 64, Tacitus dial 36, 40, Merivale's History of the Romans, c 44). Numberless allusions shew this. In div in Caecil § 12 *C Verres, cui te inimicum esse simulas* (said

to the would-be *praevaricator* Caecilius), pro Cluent § 29 *auditis non ab inimico* opposed to *audiebant ab accusatoribus*, § 42 *erat huic inimicus Oppianicus: erat: sed tamen erat vitricus* (i e he would have shewn mercy even to an *inimicus*, on the ground of family connexion); and generally the relations of counsel to clients rested on grounds of personal feeling, div in Caecil § 23 *magnus ille defensor et amicus eius* (see pro Mur §§ 5, 7, 8, 9, 10, 86), pro Mur § 2 *inimicorum impetus* (see the remarkable plea in § 56).

3. Great weight was attached to the personal influence of the pleaders (pro Mur §§ 58, 59, I in Verrem §§ 9, 15). This naturally followed from what has been stated above.

4. There was no professionally trained judge to sift the evidence in a summing-up. The praetors were changed from year to year, and merely acted as chairmen of the Courts. With such presidents, no wonder that irrelevant considerations often were the most powerful in determining a verdict.

5. It was customary for the *reus* to wear old and filthy garments in sign of mourning to excite pity (pro Mur §§ 42, 86, pro Cluent §§ 18, 192, etc). Passionate appeals to the jury, either without allusion to the charge or assuming a client's innocence, were also common in speeches (see the perorations of the two just cited, the story told in pro Cluent §§ 58, 59, and Quintil VI I § 36).

6. Bribery (*corrumpere iudicium*) was common (see for instance pro Cluent §§ 64 foll). In truth it was not guarded against with proper care. The jury were accessible during the trial to the agents of either party, instead of being kept away by themselves.

It will thus be seen how differently from our English trials a criminal prosecution was conducted at Rome. We are not dealing with the Athenian courts; but one quotation will perhaps be interesting. In Dem de Cor p 230 § 15 we read *τοῦ μὲν ἀγῶνος ὅλου τὴν πρὸς ἐμὲ ἔχθραν προίσταται*, § 16 *τῆς ἡμετέρας ἔχθρας ἡμᾶς ἐφ' ἡμῶν αὐτῶν δίκαιον ἦν τὸν ἐξετασμὸν ποιεῖσθαι.*

B. *Leges iudiciariae.*

Up to the year 123 BC the *iudices*, whether single jurymen or a number empanelled to serve on the permanent or extraordinary commissions (*quaestiones perpetuae* or *extraordinariae*), were taken

exclusively from the Senate. In that year the tribune Gaius Gracchus transferred the *iudicia* to the *equites.* This *lex Sempronia* was confirmed and strengthened by the *lex Servilia repetundarum* of Gaius Servilius Glaucia, probably in B C 104 or 100, intended, it seems, to reverse a *lex Servilia* of Quintus Servilius Caepio passed in B C 106, of which we know very little. But the *lex Cornelia* of Sulla in B C 81 again installed the senators as *iudices*, an arrangement which lasted until B C 70. In that year the *lex Aurelia* of Lucius Aurelius Cotta introduced a new system. The juries were for the future to consist of three *decuriae*, one of senators and two of men of equestrian rating; one of these two to be formed of men who had served as *tribuni aerarii.* This last arrangement was in force at the time of Murena's trial. [See Mommsen, book IV cc 3, 6, 10, book V c 3.]

C. *On* § 62, *dixisti: quippe, iam.*

Here the MSS have *dixisti quippe iam*, the only variant being Lag 9 which has *quicpe iam.* All editors accept the correction of Manutius, *quippiam.* What I wish to point out is that this restoration of the passage, though plausible, is not necessary. In § 74 we find *ergo ad cenam petitionis causa si quis vocat, condemnetur. 'quippe,' inquit; 'tu mihi'...*, de fin IV § 7 *ista ipsa quae tu breviter, regem dictatorem divitem solum esse sapientem, a te quidem apte ac rotunde; quippe; habes enim a rhetoribus*, V § 84 *quem hunc appellas, Zeno? 'beatum,' inquit. etiam beatissimum? 'quippe,' inquiet*, de orat II § 218 *leve nomen habet utraque res. quippe; leve enim est totum hoc risum movere*, see also pro Rosc Am § 52, pro Planc § 53, pro Caec § 55, on which Jordan adds de republ I § 61, ad Att V 15 § 1. Madvig on de fin V § 84 says '*quippe* is not used ironically by Zeno, as though he were making fun of himself; it gives a strong affirmative answer, with a sort of wonder at any doubt having been possible.' I believe then that in the present passage we might retain the MSS reading, which it must be granted is a strange corruption for *quippiam*, had that been in the original.

dixisti: quippe, iam fixum et statutum est, 'you have said:' 'to be sure I have; henceforth 'tis fastened and established for ever.'

D. *On* § 75, *lectuli Punicani.*

The received interpretation of this passage is, that part of Tubero's bad taste was shewn in providing mean couches for the guests to recline upon at the banquet. I wish to trace up the authorities for this view and against it.

1. Valerius Maximus VII 5 tells the same story, almost word for word after Cicero; but in pointing out the offence given to the Roman people, he says not a word about the *lectuli* as mean, or as having been in any way improper; on the contrary, he says that the people punished the public scandal of such an entertainment by voting against Tubero at the praetorian election, because it thought *non unius convivii numerum sed totam se in illis pelliculis iacuisse*, thus laying the whole stress on the skins.

2. Seneca Ep 96 (95) § 72 says *proderit dicere Tuberonis ligneos lectos, cum in publicum sternerent, haedinasque pro stragulis pelles, et ante ipsius Iovis cellam adposita conviviis vasa fictilia.* He evidently uses the term *ligneos* in contempt.

3. Isidorus Orig XX 11 § 3 says *lectuli Punicani, parvi et humiles et lignei; nam huiusmodi lecti ex Carthagine primum advecti sunt. Humiles* seems = not raised high above the ground, perhaps even 'unpretending.'

4. Pliny Nat Hist XXXIII § 144 tells us that these couches were inlaid with precious metals. One Carvilius Pollio was the first to put silver upon dinner-couches; he, however, did not go so far as to overlay them or make them look as splendid as Delian furniture; he only did them in the Punic style; he applied gold also in the same style; and shortly afterwards the silvered couches were made on the Delian plan. All this ostentation, he adds, was expiated by the Sullan civil war. The 'Punic style' must mean inlaid work. We see also that the date of Carvilius Pollio falls before B C 88; how much, cannot be inferred.

5. Livy XXXIX 6 in speaking of the triumph of Cn Manlius Vulso (BC 187) over the Galatians, goes on to remark that it was the Asiatic army that first brought foreign luxury to Rome. As an instance of this he adduces the introduction of couches, with bronze feet (*lecti aerati*). Cicero also, II in Verr IV § 60, speaks of the same articles as having been extorted from people in Sicily by

Verres; and the context makes it certain that he means them for a mark of luxury.

6. *sternere* does not imply the providing of the couches themselves. Compare II in Verr IV § 58 *lectos optime stratos*, Tusc disp V § 61 *in aureo lecto strato pulcherrimo textili stragulo*, and many passages in Plautus. Of course it may do so; thus Metellus (chief Pontiff 243—221 BC) ap Macrob III 13 § 11 says *triclinia lectis eburnis strata fuerunt*.

Now, whatever the passage of Isidorus may mean, it is of little or no weight. The passage of Seneca proves that in the opinion of the writer these couches were common and coarse, as being made of wood. But Seneca, though a Stoic in theory, was notoriously luxurious, and would naturally think lightly of couches which might for all that have been magnificent in the days of Tubero (who was a contemporary of the Gracchi). Pliny shews that the Punic couches were of considerable value, though not extravagantly rich if compared with others used in his own day. In fact at the date of the story (B C 129) any metallic ornamentation of a couch was rare and costly. It is not, moreover, clear that Tubero provided the couches: and from the language used it is more likely that he did not, for (a) *stravit pelliculis haedinis lectulos Punicanos* savours strongly of a purposed juxtaposition for the sake of contrast, and (b) he did not provide the tables, or they would have been coarse and rough also, and must have been mentioned; again (c) *stravit* requires an accusative case, *exposuit* leaves the 'tables' to be implied; unless then it can be shewn that the tables were rough and provided by Tubero, I maintain that the presumption is that he did not provide the couches. Fabius provided the tables and couches (a great many would be wanted, and no doubt some had to be hired or borrowed), not splendid, but elegant; Tubero put dirty skins on the couches and common Samian ware on the tables, and so I think the story is understood by Valerius Maximus. Lastly, what says Cicero himself? *his haedinis pelliculis praetura deiectus est.*

The diminutive *lectulos* seems not to imply contempt, but the employment of ordinary sofas (see pictures in Rich, Dict Ant) to make up the large number of couches wanted on this occasion.

E. Gellius xx. 10 (ed Hertz).

Ex iure manum consertum uerba sunt ex antiquis actionibus, quae, cum lege agitur et uindiciae contenduntur, dici nunc quoque apud praetorem solent. rogaui ego Romae grammaticum, celebri hominem fama et multo nomine, quid haec uerba essent? tum ille me despiciens: 'aut erras,' inquit, 'adulescens, aut ludis; rem enim doceo grammaticam, non ius respondeo: si quid igitur ex Vergilio, Plauto, Ennio quaerere habes, quaeras licet.'

'ex Ennio ergo,' inquam, 'est, magister, quod quaero. Ennius enim uerbis hisce usus est.' cumque ille demiratus aliena haec esse a poetis et haud usquam inueniri in carminibus Ennii diceret, tum ego hos uersus ex octauo annali absentes* dixi, nam forte eos tamquam insigniter praeter alios factos memineram:

pellitur e medio sapientia, ui geritur res;
spernitur orator bonus, horridus miles amatur.
haut doctis dictis certantes nec maledictis,
miscent inter sese inimicitias agitantes.
non ex iure manu[m] consertum, sed magis ferro
rem repetunt regnumque petunt, uadunt solida ui.

cum hos ego uersus Ennianos dixissem: 'credo,' inquit grammaticus, 'iam tibi.' sed tu uelim credas mihi, Quintum Ennium didicisse hoc non ex poeticae literis, set ex iuris aliquo perito. eas igitur tu quoque,' inquit, 'et discas, unde Ennius didicit.'

usus consilio sum magistri, quod docere ipse debuerat, a quo discerem, praetermonstrantis. itaque id, quod ex iureconsultis quodque ex libris eorum didici, inferendum his commentariis existimaui, quoniam in medio rerum et hominum uitam qui colunt, ignorare non oportet uerba actionum ciuilium celebriora. ('manum conserere.') nam de qua re disceptatur in iure [in re] praesenti, siue ager siue quid aliud est, cum aduersario simul manu prendere et in ea re [soll]emnibus uerbis uindicare, id est 'uindicia.' correptio manus in re atque in loco praesenti apud praetorem ex duodecim tabulis fiebat, in quibus ita scriptum est: si qui in iure manum conserunt. sed postquam praetores propagatis Italiae finibus, datis iurisdictioni(bu)s negotiis occupati, p[rof]i-

* In line 11 *absentes* = 'from memory,' 'without book.'

cisci uindiciarum dicendarum causa [ad] longinquas res grauabantur, institutum est contra duodecim tabulas tacito [con]sensu, ut litigantes non in iure apud praetorem manum consererent, sed 'ex iure manum consertum' uocarent, id est alter alterum ex iure ad conserendam manum in rem, de qua ageretur, uocaret atque profecti simul in agrum, de quo litigabatur, terrae aliquid ex eo, uti unam glebam, in ius in urbem ad praetorem deferrent et in ea gleba, tamquam in toto agro, uindicarent. idcirco Ennius significare uolens (bellum), non, ut ad praetorem solitum est, legitimis actionibus neque ex iure manum consertum, sed bello ferroque et uera ui atque solida [......]; quod uidetur dixisse, conferens uim illam ciuilem et festucariam, quae uerbo diceretur, non quae manu fieret, cum ui bellica et cruenta.

F. *On* § 47.

Feeling as I do that the explanation of this passage given in the notes is far from being wholly satisfactory, I here add an abstract of that given by Sorof in his able review* of Tischer's edition, with which Halm agrees in many points. My own comments are in brackets.

(1.) He thinks that the *plebs* are any persons of that order (as opposed to the *ordo senatorius*) concerned in any way. Why not, he asks, the bribed voters? may they not have lost for a time the right of voting? [This needs some parallel to render it plausible.]

(2.) He refers the *morbi excusatio* to the party or parties accused. *ceteri vitae fructus relinquendi* cannot, he urges, refer to any penalty inflicted on jurors, witnesses, and such like: it must have been the *infamia* or exile. The accused often employed the pretence of ill-health as a *ruse* for protracting a trial till they had entered on their office and were beyond reach of prosecution. Ferratius well notes the reference to Murena's illness in § 86, in spite of which the trial took place. The Twelve Tables† ordered an adjournment in such cases. [The former part of this consists of assumptions which our ignorance of the necessary details leaves us unable either to maintain or refute. Why may there not have

* Zeitschrift für das gymnasialwesen, 15th year, pp 758 foll.
† I cannot find this in the fragments.

been some penalty aimed at the jurors or witnesses offending, which in the highly-coloured language of Cicero might appear as in the text? As for Murena's illness, it supplies no such proof as the above argument assumes. Even if it was open to him to plead illness in bar of further proceedings, he may not have done so. As Cicero does not mention his sickness until the peroration of the speech, and then does so only in an incidental allusion by way of adding pathos to his appeal, I am inclined to think that the more probable inference is the reverse of that drawn by Ferratius.]

(3.) *multorum*, he continues, is opposed to *fortunae communi* above: if that refers to all senators concerned, *multorum* may very well refer to the candidates. [I believe Cicero to mean in the former passage, 'any senator may become a candidate any day, and may—whether guilty or not—be put on his trial.' Hence *fortuna communis* is used. Why *multorum* should be necessarily opposed to this I cannot see: and it comes in much better as applied to jurors or witnesses than if taken of the candidates, for which it is an astoundingly loose expression.]

(4.) He urges that *addita est* can only mean 'on the top of the general penalty an additional one for *morbi excusatio* was imposed.' [This dogma I wholly reject. If the putting in such a plea involved a conviction with sentence to follow, the man who pleaded illness would be in a worse case than if he had allowed judgment to go against him by default, which is to me incredible: if it did not, the whole statement is nonsense. This difficulty arises from referring the words to the candidates.]

(5.) He concludes by pointing out that if we keep the reading *prorogationem* we cannot, from the meaning of the word, refer to the Manilian law about the votes of the freedmen. Yet had there been another *lex Manilia* on so important a subject, we must have heard of it. He would then accept Mommsen's conjecture *perrogationem*, and look upon this passage as giving the contents of the Manilian law. As the freedmen had in B C 304 been banished to the four City Tribes (or, as Mommsen and Huschke more probably assume, wholly deprived of their right of voting) by the censor Q Fabius Rullianus, those tribes to which on the ground of residence they belonged, might in a certain sense be rightly regarded as incomplete until Manilius carried a law admitting them to their proper tribes. After this it could be said that the

separate tribe-classes [see note on *tribus*, § 42 of the speech] voted in full, or were *perrogati*. The new technical word needs not offend the reader. [We are, it seems, to render 'the voting-in-full as provided in the Manilian law;' *legis* being a sort of possessive genitive.] Now such a *perrogatio* would really introduce *aequatio gratiae;* so would the *confusio suffragiorum*, which Drumann (Gesch R V 446) well explains as meaning that Sulpicius sought also to have the centuries vote not according to the property-classes, but according to the decision of the lot [*entscheidung der looses*, by which I suppose is meant that the order of voting was to be absolutely settled by lot, the first class having no necessary preference]. He adds that *confundere* is not found elsewhere in this sense, and sums up to the effect that Sulpicius wanted two things which tended one way, viz to *aequatio gratiae* etc. [We have only to examine our authorities (given in Orelli and Baiter's onomasticon, Vol III p 217) to see that our knowledge of the *lex Manilia de libertinorum suffragiis* is far too scanty to afford a safe foundation for any theories. Our only scrap of detail is preserved by Dion, who says that Manilius τῷ ἔθνει τῷ τῶν ἀπελευθέρων......ψηφίσασθαι μετὰ τῶν ἐξελευθερωσάντων σφᾶς ἔδωκε, but adds that the law was at once repealed. If then we resolve on identifying this with the law spoken of in the text, we shall be more likely to weave cobwebs than to produce any sound conclusion. Next we are driven to explain the *confusio suffragiorum* in a way which sets at nought the meaning of *confusio*, and rests on an airy hypothesis which itself rests on nothing. Lastly, we have to coin a new word, and then to go hunting for a meaning to attach to it. The word *perrogatio* is found, according to Forcellini, only in a fragmentary inscription on a broken stone (*in veteri curto lapide*), too doubtful an authority to establish anything with regard to the meaning, if it even proves the existence of the substantive. No doubt the verb *perrogo* means 'ask in full.' We find thus in Livy XXIX 19 *perrogari eo die sententiae non potuere*. But to coin *perrogatio* and then treat *legis* as a possessive genitive is a proceeding I cannot approve. We also find *perrogo* used of passing or carrying a law; but only in Valerius Maximus, I 2 ext § 1 *Minos tamquam ab Iove traditas leges perrogabat*, VIII 6 § 4 *Varius tribunus plebis legem adversus intercessionem collegarum perrogavit*, and the former of these passages is not in the author's own words, but in those of

his epitomizer Julius Paris. On this meaning is apparently based the interpretation of our passage by Halm, who says, 'The words from *perrogationem* to *suffragiorum* introduce nothing new, but are only a rhetorical addition explaining *confusionem suffragiorum*. When Cicero speaks of a *perrogatio legis Maniliae*, he means that, in desiring the votes to be taken by heads [mass-voting] instead of by centuries, Sulpicius aimed at nothing short of carrying the Manilian law indirectly; for in a *confusio suffragiorum* the freedmen were in fact placed as regards voting on a level with the rest of the citizens.' By this method the difficulty connected with the genitive *legis* is got over, but no more. I am therefore still driven to the conclusion that it is best to keep *prorogationem*, a word we know well, and which with no very great stretch of its ordinary meaning may be used of a law which we cannot claim certainly to identify, so obscure is the speaker's allusion to it. The manuscripts here present three forms, *prerogationum*, *prerogationem*, *prorogationem*. Zumpt's remark on the last is, '*omni codicum auctoritate commendatur*,' which is far too strong. From his valuable list of the various readings I will however extract a few instances which shew how unsafe it is to rest solely on the MSS authority on such points.

§ 28. *prolatis*. one MS has *perlatis*.
§ 30. *promulgatis*. one has *permulgatis*.
§ 85. *prorumpet*. 3 have *per(r)umperet*.
§ 26. *pervulgata*. one has *promulgata*.
§ 25. *pervulgata*. 3 have *promulgata*.
§ 4. *perfuncti*. one has *profuncti*.
§ 4. *providere*. 3 have *previdere*.
§ 19. *profutura*. one has *prefectura*.
§ 42. *perfecit*. one has *praefecit*.
§ 44. *praenuntia*. 12 have *pronuntia*.

I fear that this Appendix is longer than suits the scale of the book in general; but I felt bound to give my reasons for not accepting views backed by the authority of Mommsen, Halm and Sorof.]

INDEX TO THE NOTES.

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